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# IRAN-CONTRA INVESTIGATION

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# JOINT HEARINGS

BEFORE THE

## HOUSE SELECT COMMITTEE TO INVESTIGATE COVERT ARMS TRANSACTIONS WITH IRAN

AND THE

## SENATE SELECT COMMITTEE ON SECRET MILITARY ASSISTANCE TO IRAN AND THE NICARAGUAN OPPOSITION

ONE HUNDREDTH CONGRESS

FIRST SESSION

100–6

JUNE 23, 24, AND 25, 1987

## TESTIMONY OF GLENN A. ROBINETTE, NOEL C. KOCH, HENRY H. GAFFNEY, Jr., STANLEY SPORKIN, AND CHARLES J. COOPER AND PRESENTATION BY W. NEIL EGGLESTON

Printed for the use of the Select Committees on the Iran-Contra Investigation

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## HOUSE SELECT COMMITTEE TO INVESTIGATE COVERT ARMS TRANSACTIONS WITH IRAN

## SENATE SELECT COMMITTEE ON SECRET MILITARY ASSISTANCE TO IRAN AND THE NICARAGUAN OPPOSITION

## JOINT HEARINGS ON THE IRAN-CONTRA INVESTIGATION

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# JOINT HEARINGS ON THE IRAN-CONTRA INVESTIGATION

## Testimony of Glenn A. Robinette, Noel C. Koch, and Henry Harold Gaffney, Jr.

TUESDAY, JUNE 23, 1987

SENATE SELECT COMMITTEE ON SECRET MILITARY
ASSISTANCE TO IRAN AND THE NICARAGUAN OPPOSITION
AND
HOUSE SELECT COMMITTEE TO INVESTIGATE
COVERT ARMS TRANSACTIONS WITH IRAN,
*Washington, DC.*

The Select Committees met, pursuant to call, at 9:00 a.m., in room 325, Russell Senate Office Building, Hon. Daniel K. Inouye (chairman of the Senate Select Committee) and Hon. Lee H. Hamilton (chairman of the House Select Committee) presiding.

Chairman INOUYE. The joint hearings will please come to order. Our first witness is Mr. Glenn A. Robinette. Mr. Robinette would you introduce your counsel for the record?

Mr. ROBINETTE. My counsel is Mr. Mark Touhey.

Chairman INOUYE. Mr. Robinette, will you please rise and raise your right hand?

[Witness sworn.]

### TESTIMONY OF GLENN A. ROBINETTE

Mr. ROBINETTE. Yes.

Chairman INOUYE. Mr. Barbadoro?

Mr. BARBADORO. Thank you, Mr. Chairman.

Mr. Robinette, did General Richard Secord pay you to install a security system at the residence of Lt. Col. Oliver North?

Mr. ROBINETTE. Sir, on the advice of counsel, I respectfully decline to answer the question, and assert my constitutional rights.

Chairman INOUYE. Mr. Robinette, the Senate and House Select Committees have obtained orders from the U.S. District Court which provide that you may not refuse to testify or provide other information to the committees on the basis of your privilege against self-incrimination.

Copies of the orders are available at the witness table and will be placed in the record of these hearings. Accordingly, you are directed to answer the committees' question and to provide any other information which may be required.

Chairman **Hamilton**. I concur in the statement of the Senate Select Committee chairman on behalf of the House Select Committee.

Chairman **Inouye**. Mr. Barbadoro, please continue.

Mr. **Barbadoro**. Thank you, Mr. Chairman.

Mr. Robinette, you have a soft voice, so please try to speak into the microphone. Mr. Robinette, you were employed by the Central Intelligence Agency from 1951 until 1971. Could you tell us where in the Central Intelligence Agency you worked, what division?

Mr. **Robinette**. Yes, I was associated with something called Technical Services.

Mr. **Barbadoro**. What did you do in the Technical Services Division?

Mr. **Robinette**. These were technical type of operations in electronics and optics and other fields that were utilized in support of classified operations abroad.

Mr. **Barbadoro**. You retired from the CIA in 1971?

Mr. **Robinette**. Yes, sir.

Mr. **Barbadoro**. And since 1971, you have been involved in a number of jobs as a private security consultant, is that correct?

Mr. **Robinette**. That is correct, sir.

Mr. **Barbadoro**. Mr. Robinette, do you know a man named Tom Clines?

Mr. **Robinette**. Yes, sir, I do.

Mr. **Barbadoro**. How long have you known him?

Mr. **Robinette**. I would estimate 35 years.

Mr. **Barbadoro**. Is it fair to say you consider him a close friend?

Mr. **Robinette**. Yes. I first met him in the Agency, but I have known him subsequent to the Agency also.

Mr. **Barbadoro**. In fact, you see him quite frequently, do you not?

Mr. **Robinette**. Yes, sir.

Mr. **Barbadoro**. How about Edwin Wilson? Do you know Edwin Wilson?

Mr. **Robinette**. I know Edwin Wilson.

Mr. **Barbadoro**. How long have you known him?

Mr. **Robinette**. I first met him in my CIA days.

Mr. **Barbadoro**. Have you been involved in any business dealings with Edwin Wilson?

Mr. **Robinette**. No, sir, I have not.

Mr. **Barbadoro**. Do you know Richard Secord?

Mr. **Robinette**. Yes, sir, I do.

Mr. **Barbadoro**. When did you meet him?

Mr. **Robinette**. I think I first met him socially in the early eighties, 1981, 1982.

Mr. **Barbadoro**. Who introduced you?

Mr. **Robinette**. Thomas Clines.

Mr. **Barbadoro**. In addition to being a friend of Mr. Clines, you also worked with him in several business ventures, have you not?

Mr. **Robinette**. Only one.

Mr. **Barbadoro**. That one was EATSCO, was it not?

Mr. **Robinette**. Yes. There was EATSCO, yes, sir.

Mr. **Barbadoro**. Mr. Clines was one of the owners of EATSCO, and you were one of the employees of EATSCO, correct?

Mr. **Robinette**. Yes.

Mr. **Barbadoro**. Mr. Robinette, there have been reports in the press from—attributed to committee staff members that you have information and would testify about an interest that General Secord had in EATSCO. Do you have any information that Richard Secord had any kind of interest in EATSCO?

Mr. **Robinette**. No, I have never heard General Secord's name mentioned during the time, the short period of time that I was at EATSCO, nor have I since that time.

Mr. **Barbadoro**. You have no knowledge of General Secord having any interest in EATSCO, correct?

Mr. **Robinette**. No knowledge at any time.

Mr. **Barbadoro**. And you have never told any member of either the House or Senate committee staffs that General Secord had a hidden interest in EATSCO?

Mr. **Robinette**. No, I honored the restrictions, I have nothing to tell, and I was quite shocked at a front-page article in the *New York Times* stating that I had knowledge of that type, plus I also was an associate of a gentleman named Frank Terpil, who is a fugitive from the United States.

I have never met Frank Terpil in my life. This reporter never contacted me. He said I was unavailable—I am quoting from the paper. I am as available as the Washington Monument.

Mr. **Barbadoro**. I know that Senator Boren plans to ask you more questions about the EATSCO matter. I want to move on and ask you if prior to 1986, did you have any business dealings with Richard Secord?

Mr. **Robinette**. No, sir.

Mr. **Barbadoro**. Did there come a time in 1986 when he did ask you to do some work for him?

Mr. **Robinette**. Yes, sir.

Mr. **Barbadoro**. When was that?

Mr. **Robinette**. Probably late March 1986.

Mr. **Barbadoro**. What did he ask you to do?

Mr. **Robinette**. He had a problem with people making allegations about him, and he wanted to determine the source of these allegations.

Mr. **Barbadoro**. Could you describe those allegations?

Mr. **Robinette**. Certainly. It was prior to a civil suit that took place in May. However, it went along the lines that General Secord dealt in drugs and conspiracy against the government and other illegal types of activities.

Mr. **Barbadoro**. There were allegations that he wanted you to check on that people said he was running guns, isn't that true?

Mr. **Robinette**. That was an additional one, yes, sir.

Mr. **Barbadoro**. And among the people that he asked you to look into were Martha Honey and Tony Avirgon, people who were then contemplating a lawsuit against General Secord?

Mr. **Robinette**. Yes, I believe they had published some report on those lines. That was one of several names given to me.

Mr. **Barbadoro**. What kind of investigative work did he want you to do?

Mr. **Robinette**. In most instances, he didn't know these people, the names that he had given me, and he wanted me to determine who they were and why they were saying—making such statements against him.

Mr. BARBADORO. Did he offer to pay you for this work?

Mr. ROBINETTE. Yes, he did.

Mr. BARBADORO. How much did he agree to pay you?

Mr. ROBINETTE. Approximately $4,000 a month, plus expenses.

Mr. BARBADORO. Did you accept his offer?

Mr. ROBINETTE. Yes, I did.

Mr. BARBADORO. When did you start working for him?

Mr. ROBINETTE. Just about the beginning of April 1986.

Mr. BARBADORO. And when did you receive your first payment from Mr. Secord for this investigative work?

Mr. ROBINETTE. Sometime probably toward the end of April 1986.

Mr. BARBADORO. Were you paid in cash or check?

Mr. ROBINETTE. The first payment was in cash.

Mr. BARBADORO. Subsequently did you receive some payments in the form of checks?

Mr. ROBINETTE. Yes, I did.

Mr. BARBADORO. Could you look at exhibits 2A, 2B, and 2C, which are checks made out to you, signed by Richard Secord, on a Stanford Technology Trading Group International account? Do you recognize those checks?

Mr. ROBINETTE. Yes, sir, I recognize all three.

Mr. BARBADORO. And are those checks that General Secord paid to you for the investigative work that you were doing for him?

Mr. ROBINETTE. Yes, sir.

Mr. BARBADORO. Apart from these checks, were you later paid in cash for some of the investigative work you were doing?

Mr. ROBINETTE. Yes, sir, I was.

Mr. BARBADORO. For how long were you paid for the work you were doing for General Secord?

Mr. ROBINETTE. Approximately 9 months of 1986, starting in April, and ending in about December.

Mr. BARBADORO. When did you receive your last payment from him for this work?

Mr. ROBINETTE. I believe December 1986.

Mr. BARBADORO. Let me refresh your memory. Didn't you receive a payment in March of this year?

Mr. ROBINETTE. Yes, sir.

Mr. BARBADORO. And that was a $2,000 payment, correct?

Mr. ROBINETTE. Yes, sir.

Mr. BARBADORO. Did you continue working for General Secord on this investigative assignment even after you stopped being paid?

Mr. ROBINETTE. Yes, I did, sir.

Mr. BARBADORO. How long did you continue that work?

Mr. ROBINETTE. I think probably until early April 1987.

Mr. BARBADORO. So, it is fair to say that you have done some work for General Secord for which you have not yet been paid, is that right?

Mr. ROBINETTE. Yes, sir.

Mr. BARBADORO. About how much does he owe you?

Mr. ROBINETTE. Well, I would say approximately $15,000, but in all fairness to General Secord, we did, I did instigate a conversation with him in late December or early January, in which I said I knew at that time he was under a great deal of pressure and that he concurred and said that he had difficulty in paying me, and I volunteered that I would be certainly willing to continue to be the recipient of information on investigations that I had started, and I would do it on a time-available basis, and General Secord could pay me whenever he could.

Mr. **Barbadoro**. So, you reached agreement with General Secord that you would continue to work and he would pay you when he could, is that right?

Mr. **Robinette**. Yes, that is correct.

Mr. **Barbadoro**. Did there come a time in the spring of 1986 when General Secord asked you to do some different work for him?

Mr. **Robinette**. Yes, sir.

Mr. **Barbadoro**. And what he asked you to do was to install a security system out at the residence of Colonel North, correct?

Mr. **Robinette**. Basically that is correct.

Mr. **Barbadoro**. Can you look at exhibit 1, your appointment calendar; from that calendar, can you determine when it was that General Secord asked you about this security system?

Mr. **Robinette**. It was approximately—the date is approximately April 29.

Mr. **Barbadoro**. It is not approximately, it is April 29, correct?

Mr. **Robinette**. It is April 29.

Mr. **Barbadoro**. Could you tell us what he said to you?

Mr. **Robinette**. He mentioned that Colonel North had been experiencing some threats at his house, against the family, and that if I was interested, he would like—if I thought I could do it, he would like me to go see Mrs. North and make plans to implement a security system at the residence.

Mr. **Barbadoro**. Did he describe the kind of threats that Colonel North complained about?

Mr. **Robinette**. I think he touched on them at that time, but subsequently, there was more detail from Colonel North.

Mr. **Barbadoro**. What were you told about the threats that Colonel North was facing?

Mr. **Robinette**. There were instances of someone driving along the road paralleling their house, Colonel North's home, and shining lights at late hours when Colonel North was not there, which frightened the wife and the children.

There was an instance of sugar or sand in the gas tank, punctured tires, threats by telephone from unknown sources, and I believe on several instances, there were boxes, bags containing unknown objects found in the mailbox that was external to their property, but situated on the public road adjoining the property.

Mr. **Barbadoro**. Is it fair to characterize these kinds of threats as in the nature of harassment?

Mr. **Robinette**. I can't say they were harassment. I don't know who originated them.

Mr. **Barbadoro**. Was there any discussion about possible threats from terrorists?

Mr. **Robinette**. I think that was used at that time, but subsequently, it came up more specifically.

Mr. **Barbadoro**. When you say it was used at that time in the meeting with General Secord, he may have mentioned terrorists, and later on you discussed it with Colonel North as well, correct?

Mr. **Robinette**. He was trying to give me an idea of what Mrs. North was experiencing, and I think he felt that a meeting face to face with Mrs. North would be more factual.

Mr. **Barbadoro**. Did he tell you what kind of security system he wanted you to install?

Mr. **Robinette**. No, sir.

Mr. **Barbadoro**. And later in the day you, also, called Mrs. North system at this initial meeting?

Mr. **Robinette**. No, sir.

Mr. **Barbadoro**. At some point in the meeting, did he call Mrs. North?

Mr. **Robinette**. Yes, he called Mrs. North.

Mr. **Barbadoro**. And later in the day you, also called Mrs. North and arranged to meet her at her home the next day; correct?

Mr. **Robinette**. Yes. The purpose of his call was to introduce me by telephone and I subsequently called Mrs. North, mentioned General Secord's call and we agreed to meet, Mrs. North and I agreed to meet the next day.

Mr. **Barbadoro**. Did you go out to the North residence on April 30th?

Mr. **Robinette**. Yes, I did.

Mr. **Barbadoro**. Could you describe what you did when you went out there?

Mr. **Robinette**. Certainly. I went to the residence, introduced myself to Mrs. North, told her that I understood she was experiencing some difficulties and felt uneasy about her own security and the security of the family, asked her to describe in more detail about the flashing lights and any other incidents, told her that I was going to try to come up with a system and procedures that would protect her and the family against personal injury and kidnapping.

I then asked her permission to go around the house and walked around the property and came back to her, told her thank you very much, and left.

I think the whole visit probably took one hour.

Mr. **Barbadoro**. Based on your discussion with Mrs. North and your survey of the house, did you make some decisions about the kind of security system that you thought should be installed at the North residence?

Mr. **Robinette**. I had a basic idea.

Mr. **Barbadoro**. In general terms, what were you thinking about?

Mr. **Robinette**. Something to restrict vehicular traffic from driving in the open gateway and something to give a warning to the family if an attempt was made to penetrate the residence and something to provide an automatic system that in the event of any intrusion, an offsight location would be automatically signaled to send assistance either from the law enforcement or the fire department.

Mr. **Barbadoro**. Up until this point, had you met Colonel North?

Mr. **Robinette**. No, I had not.

Mr. **Barbadoro**. Can you again look at exhibit 1, your calendar, and tell us when it was that you first met with Colonel North?

Mr. **Robinette**. I met with Colonel North on May 5, 1986, at the Executive Office Building.

Mr. **Barbadoro**. Who arranged that meeting?

Mr. **Robinette**. General Secord.

Mr. **Barbadoro**. Did he go with you to the meeting?

Mr. **Robinette**. Yes, he did.

Mr. **Barbadoro**. Tell us what happened.

Mr. **Robinette**. I met General Secord downtown. He took me to the Executive Office Building. We signed in and went upstairs, I believe, I think to a third floor, to Colonel North's office. He seemed to be quite busy, Colonel North was quite busy.

I think I recall seeing Miss Hall.

We waited a few moments and Colonel North then—General Secord then introduced Colonel North to me as the gentleman who had visited his house and his wife and was going to try to implement some security procedures to protect the family.

Mr. **Barbadoro**. After being introduced to Colonel North, what did you say to him and what did he say to you?

Mr. **Robinette**. I told him that I had some basic ideas how to protect the family, that I was extremely conscious that this was a family, this was a home, and not a SAC base, and that I would try to implement procedures that would not seriously affect the lifestyle.

Mr. **Barbadoro**. What was Colonel North's reaction?

Mr. **Robinette**. I would say very enthusiastic, very pleasant. He was extremely cordial. It was a very short meeting.

Mr. **Barbadoro**. Did you have any discussion with Colonel North at this meeting about who was going to pay for this system?

Mr. **Robinette**. No, sir; not at that time.

Mr. **Barbadoro**. At that point, did you have any idea as to how much the system was going to cost?

Mr. **Robinette**. I don't believe—I think I had a general idea, at least I thought I did.

Mr. **Barbadoro**. In any event, you hadn't yet obtained an estimate from any one of the contractors; is that right?

Mr. **Robinette**. No. One of the reasons is that I was considering putting in an optical surveillance system to see if we could identify who was stopping on the side road and who was leaving packages in the mailbox.

I hadn't yet technically decided how to do it, to have it operate automatically and/or who would do it.

Mr. **Barbadoro**. What role did General Secord play at this meeting?

Mr. **Robinette**. He had very little, if anything, to say. He sat very quietly.

Mr. **Barbadoro**. Did you meet with Colonel North again 5 days later on the 10th of May?

Mr. **Robinette**. Yes, I did, sir.

Mr. **Barbadoro**. And what was the purpose of that meeting?

Mr. **Robinette**. I had reached a point then where I had formulated more specific ideas as to what would be useful and fit into their lifestyles.

Mr. **Barbadoro.** Where did you meet with Colonel North this time?

Mr. **Robinette.** I met with Colonel North at General Secord's office in the Tysons Corner area of Virginia, that is Stanford Technology.

Mr. **Barbadoro.** Was General Secord at this meeting as well?

Mr. **Robinette.** Yes, he was.

Mr. **Barbadoro.** Was there any discussion at this second meeting about how much you thought this system might cost?

Mr. **Robinette.** Yes, there was.

Mr. **Barbadoro.** What did you say about it?

Mr. **Robinette.** At this time, I described in more specific detail as to what I thought would be a useful system to protect the family and the children from any threats.

I believe at this time was the first time, or in more specific detail when Colonel North mentioned his concern of terrorists, terrorism.

I summarized by telling him—after describing the system, I summarized then by telling him the estimated cost in my opinion of the system?

Mr. **Barbadoro.** And what was that estimated cost?

Mr. **Robinette.** Somewhere around $8,000 to $8,500.

Mr. **Barbadoro.** What was his reaction when you told him about the cost of the system?

Mr. **Robinette.** He concurred and said, "Please try to keep it along those lines. Remember, I am a poor lieutenant colonel."

Mr. **Barbadoro.** Other than that reference, was there any discussion at the meeting about who was going to pay for the system?

Mr. **Robinette.** No, sir.

Mr. **Barbadoro.** Mr. Robinette, when did you decide on a contractor for this security system?

Mr. **Robinette.** Some time between the 10th and I believe the 19th of May.

Mr. **Barbadoro.** Can you tell us the name of the contractor you had in mind?

Mr. **Robinette.** Certainly, sir. I selected a company called Vatec.

Mr. **Barbadoro.** Why did you choose Vatec?

Mr. **Robinette.** I had known VATEC for approximately 3 to 4 years prior to this date. They were comprised of a group of—some of the individuals of former CIA colleagues, and I knew them to be extremely reliable, and I was most comfortable dealing with them because they had a great deal of field experience. And I contacted them and they certainly agreed to do the job.

Mr. **Barbadoro.** Mr. Robinette, please turn to exhibit 3, which is a $6,000 check to Vatec drawn on your account.

Do you recognize that check?

Mr. **Robinette.** Yes, sir, I do.

Mr. **Barbadoro.** What is that payment for?

Mr. **Robinette.** That was the initial downpayment requested by VATEC in order for them to order the equipment and get the installation started.

Mr. **Barbadoro.** When did you make this payment to Vatec?

Mr. **Robinette.** 19 May 1986.

Mr. **Barbadoro.** And whose money was this $6,000?

Mr. ROBINETTE. This money was my money.

Mr. BARBADORO. After making this payment, did you seek reimbursement from someone?

Mr. ROBINETTE. Yes, I did, sir.

Mr. BARBADORO. Did you go to Colonel North or Mrs. North and ask them for the money?

Mr. ROBINETTE. No, sir, I did not.

Mr. BARBADORO. Did you send them a bill?

Mr. ROBINETTE. No, sir.

Mr. BARBADORO. Who did you go to?

Mr. ROBINETTE. I went to General Secord.

Mr. BARBADORO. Why did you go to General Secord?

Mr. ROBINETTE. I considered him the person who had given me the assignment and that was the one I was going to report to.

Mr. BARBADORO. When you went to General Secord, how much money did you ask him for?

Mr. ROBINETTE. Seven thousand dollars.

Mr. BARBADORO. Why did you ask him for $7,000 when you had paid $6,000 for the downpayment?

Mr. ROBINETTE. The additional thousand was to cover my time and expenses associated with this project.

Mr. BARBADORO. How long after making this payment did you go to General Secord?

Mr. ROBINETTE. I think almost that same time.

Mr. BARBADORO. When you went to General Secord, did he object in any way to making this payment?

Mr. ROBINETTE. The conversation, as I recall at this date, the conversation was very brief. It had been similar to other conversations I had with him on the other matter in which I simply told him what I was expecting to be paid, what I had incurred.

Mr. BARBADORO. Did he object in any way to making the payment?

Mr. ROBINETTE. No, sir.

Mr. BARBADORO. Did he suggest to you that Colonel North should be the one to pay for the system?

Mr. ROBINETTE. No, sir.

Mr. BARBADORO. Instead, he simply produced the money and paid you; correct?

Mr. ROBINETTE. Yes, sir. He appeared to consider it as another one of my expenses.

Mr. BARBADORO. Did he pay you by check or in cash?

Mr. ROBINETTE. He paid me in cash, I believe.

Mr. BARBADORO. And where did he get the $7,000 in cash that he paid you?

Mr. ROBINETTE. Do you mean the source?

Mr. BARBADORO. I mean when you were sitting in his office with him, where did he physically get the $7,000 from?

Mr. ROBINETTE. I was sitting at his desk. He was sitting behind his desk, and he turned to his right and took it from some location there, which could have been a drawer or could have been a briefcase. I don't know.

Mr. BARBADORO. What did you do with the $7,000?

Mr. ROBINETTE. Put it in my bag and went home.

**Mr. Barbadoro.** Mr. Robinette, please turn to Exhibits 4A and 4B. Exhibit 4A is your bank statement for May and exhibit 4B is a deposit slip for $7,000.

**Mr. Robinette.** Yes, sir.

**Mr. Barbadoro.** These records show you made a deposit of $7,000 on May 20.

Is that the $7,000 you got from General Secord?

**Mr. Robinette.** Yes, sir.

**Mr. Barbadoro.** Mr. Robinette, when did the installation of this security system start and when did it finish?

**Mr. Robinette.** I believe it started some time in May, early May. It was completed, I think, the first week of July 1986.

**Mr. Barbadoro.** You have testified initially that you intended that Vatec would be the sole contractor. At some point, did you make a decision to bring in a second contractor to do part of the system?

**Mr. Robinette.** Yes, I did, sir.

**Mr. Barbadoro.** What is the name of that contractor?

**Mr. Robinette.** Auto Door—Automatic Door.

**Mr. Barbadoro.** And what did you ask Automatic Door to do?

**Mr. Robinette.** I asked them to install a remote control gate at the entrance area to Colonel North's property that would operate similar to an automatic garage door installation whereby the gate could be remotely controlled either coming in or going out so that occupants of vehicles didn't have to get out and perhaps subject themselves to injury or kidnapping.

Also, that the system would have an audio communication contact between the gate and the house whereby Mrs. North could look out the window after receiving a buzz, ask who it was and if she felt that they were authorized to come in she could press a button from the house and the gate was automatically released and the driver could come in.

**Mr. Barbadoro.** So Automatic Door was responsible for the electric gate. Was Vatec responsible for the rest of the system?

**Mr. Robinette.** Yes, sir.

**Mr. Barbadoro.** Can you describe for us what that system involved?

**Mr. Robinette.** Yes, sir.

It is fairly along the lines that I commented earlier. There were heat and smoke detectors installed which would automatically actuate an alarm at an offsite location. There were door and window alarms, detectors installed that would detect an entrance, an unauthorized entrance into those areas.

There were external lights up around the top of the house, and I believe an audible alarm, both of which would go off in the event that someone attempted to break into the home.

There was a portable, one or two portable transmitters that Mrs. North or members of the family could carry in their pocket either while they were in the house or out of the house which, if they were accosted or threatened, they could press a button and a radio signal would automatically signal back to the house and the central station would be alerted that there was an alarm situation at the house.

Also there was a light installed down at the front gate which I felt would prevent anyone from having free access or feeling free to do something to the mailbox if the place was lighted at all times.

Mr. **Barbadoro**. Mr. Robinette, you have testified that the system was completed in July. Did there come a time in July when you made final payment to Vatec and to Automatic Door?

Mr. **Robinette**. Yes, sir.

Mr. **Barbadoro**. And that was on July 10, was it not?

Mr. **Robinette**. Yes, sir.

Mr. **Barbadoro**. Can you describe the circumstances under which you made these payments?

Mr. **Robinette**. Yes, sir. I received word from either one of the two vendors that work was completed and that payments were required, and I knew one of the vendors, the fellow in this Vatec I had known for 35 years, and we agreed to meet at a restaurant, he is a Nisei friend of mine, we agreed to meet at a Japanese restaurant in Silver Spring, which we had done on a number of earlier occasions.

I also contacted the gentleman from Auto Door, asked him if he would be willing to meet me at that same location, and he agreed, and we subsequently all met at that restaurant in Silver Spring.

Mr. **Barbadoro**. Did you bring the final payment with you?

Mr. **Robinette**. Yes, I did, in cash.

Mr. **Barbadoro**. Take a look at exhibit 5, which is the invoice from Vatec. From that invoice, can you determine how much it was that you paid Vatec on July 10 as a final payment?

Mr. **Robinette**. Yes, I can sir.

Mr. **Barbadoro**. How much?

Mr. **Robinette**. $5,703.

Mr. **Barbadoro**. Now, you had earlier paid them 6,000 as a downpayment. What was the total amount that you paid to Vatec for this system?

Mr. **Robinette**. $11,703.

Mr. **Barbadoro**. Now, take a look at exhibit 6, which is the invoice from Automatic Door. From that invoice, can you determine how much it was you paid Automatic Door?

Mr. **Robinette**. Yes, I can, sir.

Mr. **Barbadoro**. How much was that?

Mr. **Robinette**. $2,173.

Mr. **Barbadoro**. So in total, you paid Automatic Door and Vatec 13,900, approximately 13,900 for this system, is that right?

Mr. **Robinette**. Yes, sir.

Mr. **Barbadoro**. And on July 10, you paid that figure, less 6,000, which by my calculation is about $7,900, does that sound right to you?

Mr. **Robinette**. That sounds right to me, sir.

Mr. **Barbadoro**. Whose money did you use to pay this $7,900 final payment to Vatec and Automatic Door?

Mr. **Robinette**. I used my money.

Mr. **Barbadoro**. And did you subsequently seek reimbursement from someone?

Mr. **Robinette**. Yes, I did, sir.

Mr. **Barbadoro**. Who did you look to for reimbursement?

Mr. **Robinette**. General Secord, sir.

Mr. **Barbadoro**. And, again, did you send Colonel North a bill or ever look to Colonel North for payment for this final payment?

Mr. **Robinette**. No, sir.

Mr. **Barbadoro**. Did Colonel North ever offer to pay you for the installation of the system?

Mr. **Robinette**. No, sir.

Mr. **Barbadoro**. When did you go to General Secord to seek reimbursement?

Mr. **Robinette**. I don't recall the exact date, but sometime subsequent to that payment in the Silver Spring restaurant.

Mr. **Barbadoro**. Now, you paid out $7,900 in cash. How much did you ask General Secord for?

Mr. **Robinette**. $9,000.

Mr. **Barbadoro**. And the difference between the $7,900 and the $9,000 was your fee and expenses?

Mr. **Robinette**. Yes, sir.

Mr. **Barbadoro**. Did General Secord express any reluctance to make this payment to you?

Mr. **Robinette**. No, sir. As I recall he really didn't say much of anything.

Mr. **Barbadoro**. When you went to General Secord to seek reimbursement, you told him what you were seeking reimbursement for, didn't you?

Mr. **Robinette**. Yes, sir.

Mr. **Barbadoro**. He knew he was paying you for the security system, didn't he?

Mr. **Robinette**. That would be my understanding, sir. I usually told him what I was asking to be paid for.

Mr. **Barbadoro**. There is no question about that, is there?

Mr. **Robinette**. No, sir, there is no question about it.

Mr. **Barbadoro**. Mr. Robinette, turn to exhibit 7A which is a $9,000 check, cashier's check, drawn on Republic National Bank made out to you and bearing the notation, "CSF Investments, Limited." Have you seen that before?

Mr. **Robinette**. Yes, sir.

Mr. **Barbadoro**. Is that the check that you received from General Secord?

Mr. **Robinette**. This is a copy, and I assume—yes, sir, to my understanding.

Mr. **Barbadoro**. This check was sent to you in the mail after you went to General Secord and asked for payment, correct?

Mr. **Robinette**. Yes, sir. So it is subsequent to the payment, some several weeks later.

Mr. **Barbadoro**. And you took this check and endorsed it and cashed it, correct?

Mr. **Robinette**. Yes, I did, sir.

Mr. **Barbadoro**. Mr. Chairman, the record should reflect that exhibits 7B through 7F were provided to the committees by Albert Hakim. These exhibits show that on August 18, 1986, Richard Secord gave written instructions to Willard Zucker to issue a check to Glenn Robinette in the amount of $9,000. They also show that Mr. Zucker gave written instructions to the Republic National Bank to draw a check for $9,000 and send it to Mr. Robinette. Finally, the records show that CSF Investments was reimbursed by Udall, one of the Secord Enterprise accounts.

Mr. Robinette, I just want to summarize your testimony with you to date.

Mr. **Robinette**. Yes, sir.

Mr. **Barbadoro**. You said so far you paid Vatec and Automatic Door approximately $13,900 to install the security system, correct?

Mr. **Robinette**. Yes, sir.

Mr. **Barbadoro**. And you, in turn, received a total of 16,000 in reimbursement from Richard Secord, is that right?

Mr. **Robinette**. Yes, sir.

Mr. **Barbadoro**. A $7,000 payment in May, and a $9,000 payment in August, is that right?

Mr. **Robinette**. Yes, sir.

Mr. **Barbadoro**. And is it fair to say that during this entire period of time you never went to Colonel North to seek reimbursement for this system, and Colonel North never offered to pay you for this system, is that right?

Mr. **Robinette**. That is correct, sir.

Mr. **Barbadoro**. The only person you went to was General Secord, and he paid you for the system, is that right?

Mr. **Robinette**. Yes, sir.

Mr. **Barbadoro**. I want to turn your attention now to November 25, 1986, which is the date of Attorney General Meese's now famous press conference and ask you where you were at that time.

Mr. **Robinette**. I was in Costa Rica, sir.

Mr. **Barbadoro**. What were you doing there?

Mr. **Robinette**. Doing continuing work for General Secord on this civil suit that had been brought up, I think, in May of that year.

Mr. **Barbadoro**. So you were in Costa Rica doing your investigation for General Secord?

Mr. **Robinette**. Yes, sir.

Mr. **Barbadoro**. When did you return to the United States?

Mr. **Robinette**. That is November 29, 1986.

Mr. **Barbadoro**. And at some point after you returned, did you receive a telephone call from Colonel North?

Mr. **Robinette**. Yes, sir.

Mr. **Barbadoro**. Let me put this call in context. First, can you tell me, as best you can, when was it that you received the call?

Mr. **Robinette**. I would have to estimate it within a week to 10 days of my return from Costa Rica.

Mr. **Barbadoro**. Would you say it was in the early part of December?

Mr. **Robinette**. Yes, sir, it was. I returned on the 29th of November, and it would probably be in that first week.

Mr. **Barbadoro**. Did you know at the time that you received this call that Colonel North had been removed from his job on the National Security Council staff?

Mr. **Robinette**. Yes, sir.

Mr. **Barbadoro**. Did you also know that Colonel North was being investigated by the FBI and other Federal agencies?

Mr. **Robinette**. Yes, surprisingly enough the Cable News Network prominently displayed all of that on the television in Costa Rica, in

San Jose, where I was, so I must say that I followed it as closely as possible if my schedule permitted.

Mr. **Barbadoro.** So by the time you returned, you knew full well what was going on with Colonel North?

Mr. **Robinette.** I believe so, sir.

Mr. **Barbadoro.** Now, tell us, as best you can remember, what was said in this telephone conversation?

Mr. **Robinette.** It came somewhat as a surprise, considering that he was in the middle of quite a few problems at that time, but he seemed very friendly, asked me how I was doing, and I probably mentioned something about his family, which I liked very much, his children, and he said that, by the way, you never sent me a bill or you have never billed me for that security installation at my residence, and how about, you better send me a bill, or please send me a bill.

Mr. **Barbadoro.** Did it surprise you that Colonel North was asking you for the first time, nearly 6 months after the system was installed, to send him a bill?

Mr. **Robinette.** I think so, yes.

Mr. **Barbadoro.** Did it also surprise you in view of the fact that General Secord had already paid for the system?

Mr. **Robinette.** Yes, sir.

Mr. **Barbadoro.** After receiving this telephone conversation, did you prepare a bill?

Mr. **Robinette.** Yes, sir, I did.

Mr. **Barbadoro.** Take a look at exhibit 8A. Is that a copy of the bill you send to Colonel North?

Mr. **Robinette.** Yes, it is.

Mr. **Barbadoro.** I want to ask you a few questions about that bill. First, let's start with the date.

Mr. **Robinette.** Yes, sir.

Mr. **Barbadoro.** The date of that bill is July 2, 1986.

Mr. **Robinette.** Yes, sir.

Mr. **Barbadoro.** You prepared this bill in December, didn't you?

Mr. **Robinette.** Yes, sir.

Mr. **Barbadoro.** And that date is false, isn't it?

Mr. **Robinette.** Yes, sir.

Mr. **Barbadoro.** The bill is for $8,000 for the security system. That is not what the system cost, is it?

Mr. **Robinette.** No, sir.

Mr. **Barbadoro.** And that amount is false, as well as the date is false, isn't it?

Mr. **Robinette.** Yes, sir.

Mr. **Barbadoro.** Mr. Robinette, is it fair to say that you intended this bill to look like a first notice?

Mr. **Robinette.** Yes, sir. This was a date that the equipment was—when the system was finished. This date reflects that, yes, sir.

Mr. **Barbadoro.** And at the same time you prepared this first notice, you also prepared a second notice, didn't you?

Mr. **Robinette.** Yes, sir, I did.

Mr. **Barbadoro.** And that second notice is exhibit 8B, isn't it?

Mr. **Robinette.** Yes, sir.

Mr. **Barbadoro**. That second notice is basically a copy of the first notice with a note you added at the bottom, isn't it?

Mr. **Robinette**. Yes, sir, it is.

Mr. **Barbadoro**. And the date of the note you added on the bottom, September 22, 1986, is also false, isn't it?

Mr. **Robinette**. Yes, sir.

Mr. **Barbadoro**. And the statement in the note, at the bottom, which is to the effect that you had not had time to send out the notice earlier because you have been busy, is also false, isn't it?

Mr. **Robinette**. Yes, sir.

Mr. **Barbadoro**. Mr. Robinette, what did you do with these bills when you prepared them?

Mr. **Robinette**. I put them in an envelope and put Colonel North's name on the envelope and inserted that envelope in an outer envelope and addressed it to Colonel North's attorney.

Mr. **Barbadoro**. So to make sure we are clear on this, you put the bills in an envelope addressed to Colonel North, and then you put that envelope in a larger envelope addressed to Colonel North's attorney; correct?

Mr. **Robinette**. Yes, sir.

Mr. **Barbadoro**. And that was so the bills would get to Colonel North, but would not be read by his attorneys; correct?

Mr. **Robinette**. Yes, sir—well, yes, sir.

Mr. **Barbadoro**. Did you send originals——

Mr. **Touhey**. Excuse me, counsel.

[Witness conferring with counsel.]

Mr. **Robinette**. Regarding the question of putting it in the envelope; yes, I wanted the bills to go to directly to Colonel North, and I felt that if I put them in a sealed envelope that the law firm would hand it to him without opening the envelope.

I sent it to the law firm because I wasn't too confident if it went to his home that he would see it.

Mr. **Barbadoro**. Did it concern you at all that you were afraid that the FBI might be intercepting Colonel North's mail?

Mr. **Robinette**. No, it didn't occur to me.

Mr. **Barbadoro**. That wasn't a concern at all?

Mr. **Robinette**. No, I—my intent was to be sure that he got it, since he asked me for it. The lifestyle at Colonel North's home was pretty much as you would imagine, a wife with a family of four children, and lots of social affairs and dogs and cats, and I felt more confident in sending it to his attorney's office.

Mr. **Barbadoro**. But let's be clear about something, Mr. Robinette, when you sent these bills to Colonel North, you never expected him to pay you for this system, did you?

Mr. **Robinette**. I had been paid.

No, I didn't expect him to pay.

Mr. **Barbadoro**. General Secord had paid you in full for the system, right?

Mr. **Robinette**. Yes, sir; I just commented, I had been paid for it.

Mr. **Barbadoro**. The real reason that you sent those bills to Colonel North was to protect him; wasn't it?

Mr. **Robinette**. I believe so, yes, sir, and——

Mr. **Barbadoro**. You were trying to provide him with a cover story, weren't you?

Mr. **Robinette**. Yes, sir; I was trying to help Colonel North.

I think my action was one in which the actions was one of heart rather than head. And I think you make a mistake if you lead with your heart instead of your head, which I did.

Mr. **Barbadoro**. What you were doing, though, was to provide him with a cover story that made it look like Colonel North was supposed to pay for the system, not General Secord; is that right?

Mr. **Robinette**. Yes; he was in the middle of major problems. He had been fired, and I had some affectionate feelings for the family, and I was trying to assist him for what it was worth.

Mr. **Barbadoro**. Did Colonel North ask you in a telephone conversation to send him back-dated bills, and a second notice, and a first notice?

Mr. **Robinette**. No, sir, he did not.

Mr. **Barbadoro**. Did you do that on your own?

Mr. **Robinette**. Entirely on my own.

Mr. **Barbadoro**. After you sent the bills, did you have a discussion with General Secord?

Mr. **Robinette**. I don't believe I mentioned it at that time. There was a subsequent occasion when I did.

Mr. **Barbadoro**. Prior to—we will get to that in a minute. That is on the 17th of March—but do you recall discussing the fact that you had sent the bills to General Secord prior to that?

Mr. **Touhey**. Excuse me, counsel; is your question, did he recall it prior to the 17th of March?

Mr. **Barbadoro**. My question is didn't, some time in December, you have a conversation with General Secord about the bills?

Mr. **Robinette**. Yes, sir.

Mr. **Barbadoro**. And what was that conversation?

Mr. **Robinette**. I had received material back from Colonel North, and I believe that is the time when I commented to General Secord that I had billed Colonel North and subsequently had received bits of correspondence from Colonel North.

Mr. **Barbadoro**. Let's talk about that. Within a few days after sending the bills to Colonel North, you got something back from him; did you?

Mr. **Robinette**. Yes, sir, I would say within a week.

Mr. **Barbadoro**. And what you got back were two letters that appeared to correspond to the two bills you had sent; correct?

Mr. **Robinette**. That is correct, sir.

Mr. **Barbadoro**. And so what you had done is you had sent phony bills, and he had sent back phony letters?

Mr. **Robinette**. Yes, sir.

Mr. **Barbadoro**. Did the letters come from Colonel North in one envelope or did they come separately?

Mr. **Robinette**. I believe both of the letters came in one envelope.

Mr. **Barbadoro**. And here again did you receive originals or copies?

Mr. **Robinette**. I think I got copies, sir.

Mr. **Barbadoro**. Mr. Robinette, take a look at exhibit 9A, which is a letter from Colonel North to you, dated, 18 May, 1986, which the committee has had enlarged and reproduced, and it will be displayed to my right. Is that one of the letters you received from Colonel North?

**Mr. Robinette.** Yes, it is, sir.

**Mr. Barbadoro.** Let me first ask you about the address on the letter. It is 703 Kentland Drive, Great Falls. That is where Colonel North lives, isn't it?

**Mr. Robinette.** Yes, sir.

**Mr. Barbadoro.** And you knew that because you had been out to the house several times?

**Mr. Robinette.** A number of times to meet the family.

**Mr. Barbadoro.** Is it fair to say, Mr. Robinette, that this letter suggests that you and Colonel North discussed two options as to how Colonel North might pay for this security system?

**Mr. Robinette.** I think it is fair to say that, sir.

**Mr. Barbadoro.** And the letter is dated 18 May, so what he is trying to do is to suggest that back in May you and Colonel North had discussed two payment options; correct?

**Mr. Robinette.** Yes.

**Mr. Barbadoro.** The first option that the letter discusses is that you will loan Colonel North the security equipment until he retires from the Marine Corps, and that in exchange, Colonel North will make his home available for commercial endorsement of the security system; did you ever discuss this payment option with Colonel North?

**Mr. Robinette.** Not to my recollection, sir.

**Mr. Barbadoro.** The second payment option discussed is that you would allow Colonel North to pay off the system in 24 equal monthly increments. Did you ever discuss this payment option with Colonel North?

**Mr. Robinette.** Not to my recollection, sir.

**Mr. Barbadoro.** In fact, you and Colonel North never discussed any payment options, did you?

**Mr. Robinette.** Not to my recollection, sir.

**Mr. Barbadoro.** You were looking to General Secord to pay for this system?

**Mr. Robinette.** Yes, sir.

**Mr. Barbadoro.** Let me turn to the second letter exhibit 9B.

That letter is also from Colonel North to you, and it is dated 1 October 1986. Is that the letter you received from Colonel North for the first time in December?

**Mr. Robinette.** Yes, sir.

**Mr. Barbadoro.** And this letter appears the way it is drafted to respond to your phony second notice dated September 22, 1986; correct?

**Mr. Robinette.** Yes, sir.

**Mr. Barbadoro.** The address on this letter is different from the first letter. It says 703 Kentland Drive, Falls Church, VA. Do you know why it says Falls Church rather than Great Falls?

**Mr. Robinette.** No, sir.

**Mr. Barbadoro.** Do you know that Colonel North once lived in Falls Church?

Mr. **Robinette**. No, sir, I know nothing about Colonel North's earlier residences.

Mr. **Barbadoro**. Mr. Robinette, is it fair to characterize this letter as suggesting, attempting to suggest that you and Colonel North had agreed on what I had earlier described as the first option for payment, that is that you and Colonel North had agreed that Colonel North could endorse the security system when he retired from the Marine Corps instead of paying you? Is that what this letter suggests?

Mr. **Robinette**. I believe so, sir.

Mr. **Barbadoro**. Did you and Colonel North ever agree on such a payment plan?

Mr. **Robinette**. No, sir.

Mr. **Barbadoro**. This whole proposal, these two options, and the suggestion that there was an agreement is made up, isn't it?

Mr. **Robinette**. It is not to my knowledge—I have never heard of it, sir.

Mr. **Barbadoro**. You were one of the parties to this supposed agreement; correct?

Mr. **Robinette**. No, sir.

Mr. **Barbadoro**. And there was never any agreement between you and Colonel North as to either of these options; correct?

Mr. **Robinette**. No, sir.

Mr. **Touhey**. Excuse me, counsel.

[Witness conferring with counsel.]

Mr. **Barbadoro**. Mr. Robinette, these two letters—the first one is dated May 18, 1986, and the second is dated October 1, 1986—both those dates are false; right?

Mr. **Robinette**. Yes, sir.

Mr. **Barbadoro**. The first time you received these letters was in December 1986; right?

Mr. **Robinette**. That is correct, sir.

Mr. **Barbadoro**. And isn't it true that what these letters are are simply cooked up responses to the phony bills you sent Colonel North in December?

Mr. **Robinette**. I would presume so, sir.

Mr. **Barbadoro**. When did you next talk to Colonel North after receiving these letters—strike that.

Let me simply note something for the record.

Mr. Chairman, the record should reflect that the committees have retained a well-known document examiner, Lyndal Shaneyfelt, and he reviewed exhibits 9A and 9B for the committees.

Mr. Shaneyfelt was handicapped by not having original letters. However, it is his opinion, based on examination of the copies, that the signatures of Colonel North on the letters were, in fact, written by Colonel North, and that the hand-printed note on exhibit 9B was also written by Colonel North.

Mr. Shaneyfelt examined the damage to the letters E, G and U, reflected on exhibit 9B. He could not replicate the damage to these letters by dropping or throwing a typing ball on to the ground.

It is his conclusion that the damaged letters have "the appearance of defects that were made by filing away portions of the type face."

Further, he has concluded that it is extremely unlikely that the damage to the letters could have been made by dropping the typing ball as Colonel North's handwritten note on exhibit 9B suggests.

Let me now move on and let me ask you the next time you spoke to Colonel North after receiving these letters.

Mr. ROBINETTE. March 16, 1987.

Mr. BARBADORO. Did you call Colonel North, or did he call you?

Mr. ROBINETTE. He called me, sir.

Mr. BARBADORO. What did he say to you in this conversation?

Mr. ROBINETTE. Opened with the usual niceties; how are you, this type of thing. I am sure I responded by asking him again about his family.

He said let's get together for lunch. I suggested—I thought that was great.

I suggested a restaurant downtown, which he said no, that under the circumstances he felt more comfortable not going to a restaurant and he invited me to his attorney's office.

Mr. BARBADORO. Did you know at the time why he had invited you to his attorney's office?

Mr. ROBINETTE. He asked me at that time to bring or I surmise he also asked me to bring copies of these four documents.

Mr. BARBADORO. That is the two bills that you sent Colonel North and the two responses you received; correct?

Mr. ROBINETTE. That is correct, sir.

Mr. BARBADORO. Did you agree to meet him the next day at his attorney's office?

Mr. ROBINETTE. I did, sir.

Mr. BARBADORO. What happened the next morning when you got up the 17th of March?

Mr. ROBINETTE. I received a phone call from General Secord.

Mr. BARBADORO. Prior to that, did you become aware of a newspaper story about you that had appeared in the press that day?

Mr. ROBINETTE. Yes.

Mr. BARBADORO. Tell us about that.

Mr. ROBINETTE. I had gotten up at a rather early hour and went out to pick up my paper. I guess I was blind sided by some video cameramen and a reporter who asked me questions about the security system and I made some comments and it subsequently had fairly broad publicity, I would say, here in Washington.

Mr. BARBADORO. On 17 March, a newspaper story had appeared which alleged that you had paid for the installation of that gate out in front of Colonel North's house; correct?

Mr. ROBINETTE. Yes, sir.

Mr. BARBADORO. Later that morning, did you get a call from General Secord?

Mr. ROBINETTE. Yes, I did, sir.

Mr. BARBADORO. What was said in that call?

Mr. ROBINETTE. He commiserated with me about being brought into the arena of publicity. He knows I am personally a very private person and that he regretted, just generalities, he regretted that these things had occurred, and suggested that we meet that day for a drink.

I told him that I was already seeing Colonel North, but I would be downtown if he were downtown, and we agreed to meet later that afternoon for a drink.

Mr. **Barbadoro**. Did you go to the luncheon meeting with Colonel North?

Mr. **Robinette**. Yes, I did.

Mr. **Barbadoro**. Did you bring the documents he requested?

Mr. **Robinette**. Yes, I did.

Mr. **Barbadoro**. Tell us what happened.

Mr. **Robinette**. We met in a conference room. Someone brought in some pre-ordered lunches and I would say that the luncheon took approximately 40 minutes, half of which or a quarter of which was taken with Colonel North on the telephone.

At the end of the luncheon, at the end of the 40-minute period, Colonel North asked me if I had the documents, I said yes, and he immediately said, "Let's go see my attorney."

Mr. **Barbadoro**. When Colonel North looked at the documents, did he tell you that you should tell the truth to his lawyer about those documents?

Mr. **Robinette**. I don't recall him saying much of anything.

Mr. **Barbadoro**. He didn't tell you, "You better tell the lawyer the truth about these," did he?

Mr. **Robinette**. No.

Mr. **Barbadoro**. What happened when you took the documents up to meet with the lawyer?

Mr. **Robinette**. The lawyer—Colonel North brought me in the office. I believe the lawyer got up from his desk, we shook hands, Colonel North left, the lawyer and I had a brief conversation about his office and the building security because I had in earlier years had an office in that same building and was very familiar with the building and some of the security problems about the building.

He then asked me if I had brought some documents and I said, yes, took them out of my bag and showed them to him. He asked me if he could make a copy. I certainly agreed. He left the office to give the documents to his secretary, found she was not at the desk, told me that he would be back in a few minutes, that he was going to make copies.

He came back shortly after 5 minutes, gave me my copies back, he had copies in his hands, we sat down, he said, "Did you prepare these documents?" And I said yes. And I believe Colonel North came in shortly thereafter, within a minute or two, said something like, "You guys finished?"—which I assumed we were, and I left with Colonel North.

Mr. **Barbadoro**. Did you tell Colonel North's lawyer that these were phony bills and letters?

Mr. **Robinette**. No, I didn't.

Mr. **Barbadoro**. Did Colonel North tell the lawyer in your presence that they were phony bills and letters?

Mr. **Robinette**. No, sir, not in my presence.

Mr. **Barbadoro**. Did you take back copies of the bills and letters with you?

Mr. **Robinette**. Yes. I took back what I believe I took down. Copies of copies, I don't know which were which, but I took back what I had carried in.

**Mr. Barbadoro.** From Colonel North's office, you went to the meeting with General Secord; correct?

**Mr. Robinette.** From the lawyer's office and then I walked on over to meet General Secord.

**Mr. Barbadoro.** Did Colonel North go with you?

**Mr. Robinette.** No, he didn't. He remained in the building, I guess. I said good-bye. We passed time talking about his children. He knows I think a great deal of them, they are rather attractive. And that is really all we talked about in that last 5 minutes.

**Mr. Barbadoro.** What happened in the meeting with General Secord?

**Mr. Robinette.** I went into the bar. He wasn't there at the time. I think I ordered a drink. He came in shortly thereafter. I would say 5 to 10 minutes. He seemed to be in a hurry, which is not unusual for General Secord, asked me how I was and again commented, "Sorry about news releases," and so forth, asked me my feelings, state of mind, health, this type of thing. He said, "You sent bills to Colonel North, didn't you?" And I nodded yes, and he said, "Well, you did the right thing." And I believe we broke shortly thereafter.

I don't even think we finished our drinks.

**Mr. Barbadoro.** Did you get a call from Colonel North's lawyer later that day?

**Mr. Robinette.** Yes.

**Mr. Barbadoro.** That is Brendan Sullivan, right?

**Mr. Robinette.** Yes. I carry a beeper or did carry a beeper.

**Mr. Barbadoro.** The lawyer you met with at Colonel North's lawyer's office was not Brendan Sullivan, it was one of his partners, wasn't it?

**Mr. Robinette.** I don't know where he fits in that law firm, but it wasn't Brendan Sullivan.

**Mr. Barbadoro.** Tell us about the call.

**Mr. Robinette.** I believe I was leaving the bar area and I got a call on my beeper, which is a display beeper showing numbers. I walked back into the hotel, called the number and the person who answered, after I identified myself, said, "Well, Mr. Sullivan wants to talk to you."

**Mr. Barbadoro.** Did you call?

**Mr. Robinette.** Well, I was on the phone, and subsequently he came on.

**Mr. Barbadoro.** What did he say to you?

**Mr. Robinette.** I think he commented also something about the news media, and I told him that I was extremely upset, I felt that I had a lot of problems. And again I didn't like being in the limelight and he made several final comments in which he mentioned three things.

The first thing he said was, "Let me tell you, Glenn, don't protect Colonel North. He is a big boy. He can take care of himself."

The second thing he told me three times was, "Tell the truth, tell the truth, tell the truth."

And the third thing he told me was, "I recommend you get an attorney."

And all of which sounded rather conclusive to me and threatening, meaning my future—I was concerned. And I think there was a silent period of maybe 10 or 20 seconds and my response to him was, "Thank you very much for calling," and that was it.

Mr. **Barbadoro**. Mr. Robinette, did these comments from Mr. Sullivan tell you that the cover story was over?

Mr. **Robinette**. No way, no, sir.

Mr. **Barbadoro**. Mr. Sullivan told you to tell the truth. After that call, have you told the truth to the Independent Counsel and to these committees?

Mr. **Robinette**. Yes, I have today.

Mr. **Barbadoro**. Have you told the truth to the Independent Counsel?

Mr. **Robinette**. Yes.

Mr. **Barbadoro**. Thank you, Mr. Robinette.

Mr. Chairman, I have no further questions.

Chairman **Inouye**. Mr. Ballen?

Mr. **Ballen**. Thank you very much, Mr. Chairman. Good morning, Mr. Robinette.

Mr. **Robinette**. Good morning, Mr. Ballen.

Mr. **Ballen**. I would like to examine with you for a moment the letters you testified you received from Colonel North in December 1986, exhibits 9A and 9B.

Mr. **Robinette**. Yes, sir.

Mr. **Ballen**. Do you have them before you?

Mr. **Robinette**. Yes, sir, I do.

Mr. **Ballen**. Turning to exhibit 9A, the letter dated May 18th from Colonel North, he writes that he has two understandings for reimbursing you. One is

> loan of the equipment for a period not to exceed the expiration of my active service in the U.S. Marine Corps, at which time we will make our home available for commercial endorsement of your firm and the equipment without fee; is that the letter he wrote you stating that?

Mr. **Robinette**. Yes, sir.

Mr. **Ballen**. As of May 18, 1986, did your firm, Glenn Robinette and Associates, have an active business installing home security systems?

Mr. **Robinette**. If I could get a client, I would.

Mr. **Ballen**. That was not your regular business, home security, was it?

Mr. **Robinette**. No, sir, but I am happy to work in that field.

Mr. **Ballen**. In fact, on this job for Colonel North, isn't it true that you subcontracted the entire installation to others?

Mr. **Robinette**. Yes. I do not have a firm with a crew of workmen who do the work. I serve as consultant, and I consider myself professionally able to design systems, and that is why I chose this other firm.

Mr. **Ballen**. But isn't it true, as of May 18th or at any time you had no home security business that would benefit from any kind of commercial endorsement?

Mr. **Robinette**. Yes, sir. I am agreeing with you, sir.

Mr. **Ballen**. In fact, you have never—if I understand correctly, upon my—supplied equipment free of charge so that some other company would be able to receive a commercial endorsement?

Mr. **Robinette**. No, I would not provide equipment free of charge.

Mr. BALLEN. So, this statement in the letter written by Colonel North, given the nature of your business, is simply untrue, isn't that true?

Mr. ROBINETTE. That is correct.

Mr. BALLEN. There is no way it could have been true?

Mr. ROBINETTE. That is correct, sir.

Mr. BALLEN. This letter dated May 18th, you stated that—you testified in fact you received in December?

Mr. ROBINETTE. That is correct, sir.

Mr. BALLEN. And the cost of the system is quoted by Colonel North in the letter is from $8,000 to $8,500; is that correct?

Mr. ROBINETTE. That is correct, sir.

Mr. BALLEN. Yet, on May 19th, you paid the contractor for the security system, Vatec, I believe it is exhibit 3, $6,000 by check?

Mr. ROBINETTE. That is correct, sir.

Mr. BALLEN. Is it normal practice in the security business to pay 75 percent of the price before work is even commenced on a job? Do you understand my question?

Mr. ROBINETTE. I believe I do, but I don't know what the practice is in the security business.

Mr. BALLEN. If the job were $8,000, there is no way you would have given a $6,000 check to Vatec before they even started work on the system, is there?

Mr. ROBINETTE. If Vatec had asked for it, I probably would have paid it, because we had a great personal relationship.

Mr. BALLEN. But they didn't ask for anything of the sort, did they?

Mr. ROBINETTE. They asked for $6,000.

Mr. BALLEN. They didn't ask for 75-percent downpayment?

Mr. ROBINETTE. No, they didn't ask for 75 percent. They asked for $6,000, and that is what I gave them.

Mr. BALLEN. You testified you received an estimate from Vatec on the electronic gate by at least June of 1986, is that correct?

Mr. ROBINETTE. Yes, sir, that is right.

Mr. BALLEN. In fact, on July 10th, you testified you paid the final installments on a security system costing some $13,900?

Mr. ROBINETTE. That is correct.

Mr. BALLEN. Yet, the bill you sent Colonel North, exhibit 8A, dated July 2, 1986, was only for $8,000; is that correct?

Mr. ROBINETTE. That is correct, sir.

Mr. BALLEN. Almost $6,000 less than the true cost of the system; is that correct?

Mr. ROBINETTE. Yes, sir.

Mr. BALLEN. Mr. Robinette, when you sent these two bills dated July 2, and September 22, to Colonel North, exhibits 8A and 8B, for the security system, you never expected payment, did you?

Mr. ROBINETTE. No, sir.

Mr. BALLEN. And the methods for payment that Colonel North had outlined in his letters to you, which we just went through, the loan of the equipment for your commercial endorsement. These letters he sent back to you and the methods of payment outlined to you were equally false, just as your bills were, were they not?

Mr. ROBINETTE. Yes, sir. I don't recall discussing that with him.

Mr. **Ballen**. When you sent these phony bills, did you know at the time it was a Federal crime for an employee of the U.S. Government to receive any form of compensation for his services other than his salary?

Mr. **Robinette**. I don't think it occurred to me at that time, sir.

Mr. **Ballen**. What other reason did you have for falsifying the documents if you didn't know it was a crime for receipt of this money by Colonel North?

Mr. **Robinette**. I have given some thought to that since that occurrence, and I think I will comment again on what I said earlier. I think I led with my heart instead of my head. Colonel North, as I said earlier, was right in the middle of major problems.

Here was someone that I had only met slightly, but I thought was an extremely dedicated, intense man, dedicated not only to the country, but to his family, and I must admit his family impressed me greatly. I thought Mrs. North was a lovely lady and greatly devoted to her family.

I liked the children very much, and to repeat again, I think my response was one based on emotion rather than cold, hard business sense.

Mr. **Ballen**. Thank you very much, Mr. Chairman.

Thank you, Mr. Robinette.

Chairman **Inouye**. Mr. Van Cleve.

Mr. **Van Cleve**. Thank you, Mr. Chairman.

Good morning, Mr. Robinette.

Mr. **Robinette**. Good morning, Mr. Van Cleve.

Mr. **Van Cleve**. You met on May 5, and May 10, 1986, with General Secord and Colonel North to discuss the installation of the security system in his home; is that correct?

Mr. **Robinette**. Yes, sir.

Mr. **Van Cleve**. I believe you testified this morning that at some point in those meetings Colonel North mentioned specifically that he believed that he or his family were the subject of terrorist threats; is that correct?

Mr. **Robinette**. Yes, sir.

Mr. **Van Cleve**. Did he specifically mention to you the name of Abu Nidal?

Mr. **Robinette**. Yes, sir. That sticks in my memory.

Mr. **Van Cleve**. And that would be just after the U.S. bombing of Libya; is that correct? That occurred in April 1986; correct?

Mr. **Robinette**. Yes, sir.

Mr. **Van Cleve**. Did Colonel North tell you that there had been guards posted at his home at that period of time?

Mr. **Robinette**. Yes. He commented that at sometime previous to our discussion, that there had been two guards, I believe, living—staying in his garage.

Mr. **Van Cleve**. They were staying in his garage; is that correct?

Mr. **Robinette**. Yes. That was the recollection that I have of the conversation, that at sometime earlier two guards had been living in his garage.

Mr. **Van Cleve**. Did he comment to you on whether that was a satisfactory arrangement for his family or not?

Mr. **Robinette**. Yes, he did comment.

Mr. **Van Cleve**. What did he say?

Mr. **Robinette**. He said it was an unsatisfactory arrangement because it had caused disruptions to his family's lifestyle.

Mr. **Van Cleve**. With respect to the security system that you installed, you designed that system, correct?

Mr. **Robinette**. Yes, sir.

Mr. **Van Cleve**. And Colonel North approved the specifications that you suggested to him, correct?

Mr. **Robinette**. He approved the operational concept of what it was to do and how it was to operate.

Mr. **Van Cleve**. That system would provide a substantial amount of protection against the kind of vandalism that Mrs. North and Colonel North had described to you that had been occurring at their home; is that correct?

Mr. **Robinette**. Yes, sir.

Mr. **Van Cleve**. And it would also provide, would it not, a deterrent to terrorist attacks?

Mr. **Robinette**. Yes, sir.

Mr. **Van Cleve**. And a substantial warning system against such attacks?

Mr. **Robinette**. I think so, sir. Yes, sir.

Mr. **Van Cleve**. Within the limits of the resources of a private individual, such as Colonel North and his family, the system would provide probably as much protection as could be provided against those kinds of attacks, correct?

Mr. **Robinette**. I think that is quite correct, sir.

Mr. **Van Cleve**. I ask you now to turn to exhibit 9B, please.

The first paragraph of 9B states, "Dear Glenn, Please forgive me for not getting back to you sooner. I have been out of town and we seem to keep missing each other on phone calls."

Is it a fact that on or around 1 October 1986 you and Colonel North had been exchanging phone calls about the security system?

Mr. **Robinette**. Not to my recollection, sir.

Mr. **Van Cleve**. In the third paragraph of the letter, the last sentence states,

> while we are very pleased with the system and the fact that it, "came in under estimate," we just don't have $8,000 without borrowing it, and with Stuart in school and Tait going next year, that is a real problem.

Did you ever tell Colonel North that the system had come in under estimate?

Mr. **Robinette**. No, sir, I never used that phrase.

Mr. **Van Cleve**. Did you ever tell Colonel North that the system had cost more than $8,000 to install?

Mr. **Robinette**. No, sir, I never did.

Mr. **Van Cleve**. To your knowledge, was Colonel North ever told what the system cost to install?

Mr. **Robinette**. I don't know.

Mr. **Van Cleve**. At any time prior to—let me rephrase that.

Did you ever become aware that at any time prior to November 25, 1986, Colonel North and General Secord had made an arrangement for North to either pay or repay the cost for the security system?

Mr. **Robinette**. No, sir, I have never heard such conversation, nor am I aware of any arrangements.

**Mr. Van Cleve.** Let me ask you a similar but somewhat different question.

To your knowledge, did General Secord ever tell North that he, Secord, had paid you for all the installation costs of the security system?

**Mr. Robinette.** Not to my knowledge, sir.

**Mr. Van Cleve.** When Colonel North called you in December 1986 and asked you for a bill, did you tell him that General Secord had already paid for the system?

**Mr. Robinette.** No, sir, I did not.

**Mr. Van Cleve.** Why not?

**Mr. Robinette.** It didn't occur to me at that time, sir.

**Mr. Van Cleve.** Let me see if I understand your answer.

Colonel North calls up and asks you to send him a bill for a security system that you know costs $14,000.

**Mr. Robinette.** Correct.

**Mr. Van Cleve.** And you know it has already been paid for, according to your testimony.

**Mr. Robinette.** Yes, sir.

**Mr. Van Cleve.** If I understand you correctly, you don't mention a word to him about the fact that the system has been paid for?

**Mr. Robinette.** That is correct.

**Mr. Van Cleve.** My question is: Why not?

**Mr. Robinette.** My interpretation, my feeling, was that he needed some assistance and he wanted bills, some documents. And, as I have commented earlier, my reaction to that was to try to be helpful. I don't—I don't think the subject of whether the system was paid for or not paid for even came into my mind at that time.

**Mr. Van Cleve.** I have two final questions, Mr. Robinette.

**Mr. Robinette.** Yes, sir.

**Mr. Van Cleve.** You have testified earlier that you paid your own funds, or at least funds that were in your custody——

**Mr. Robinette.** Yes, sir.

**Mr. Van Cleve.** —that is, cash——

**Mr. Robinette.** Yes, sir.

**Mr. Van Cleve.** —for both the down payment and the final payments on the security system; is that correct?

**Mr. Robinette.** That is correct, sir.

**Mr. Van Cleve.** And you have testified further that you received reimbursement from General Secord first in cash and then in the form of a check; is that correct?

**Mr. Robinette.** That is correct, sir.

**Mr. Van Cleve.** Do you have any other documentation that would go to support your claim that the payments you received from General Secord were, in fact, reimbursement for those payments?

**Mr. Robinette.** No, sir.

**Mr. Van Cleve.** Prior to your testimony here today, have you discussed your testimony with General Secord?

**Mr. Robinette.** No, sir.

**Mr. Van Cleve.** Have you discussed at any time your decision to seek immunity with General Secord?

**Mr. Robinette.** No, sir.

**Mr. Van Cleve.** Have you discussed your testimony with Colonel North?

**Mr. Robinette.** No, sir.

**Mr. Van Cleve.** Have you discussed your decision to seek immunity with Colonel North?

**Mr. Robinette.** No, sir.

**Mr. Van Cleve.** Have you discussed your testimony with Mr. Clines?

**Mr. Robinette.** No, sir.

**Mr. Van Cleve.** Have you discussed your decision to seek immunity with Mr. Clines?

**Mr. Robinette.** No, sir.

**Mr. Van Cleve.** No further questions, Mr. Chairman.

**Mr. Touhey.** Mr. Chairman, may I have a moment?

**Chairman Inouye.** Please.

**Mr. Touhey.** Mr. Chairman, may we have permission to have Mr. Barbadoro clarify one point that he made in response to Mr. Barbadoro's question and the point specifically, and I am not going to testify obviously, the point is, I think it really needs to be clarified so that someone is not unfairly characterized, and the statement that needs to be clarified is the word that Mr. Robinette used, threatening, his state of mind after Mr. Sullivan's call.

I have discussed this with Mr. Sullivan. I think Mr. Robinette may have given an impression that is not accurate. He would like to clarify it. May he do so, sir?

**Chairman Inouye.** Please do.

**Mr. Robinette.** Thank you. In using the word "threatening" regarding that phone call, in no way do I mean to imply at any time that Mr. Sullivan was making a threat to me. The threatening to me was one of my own feelings that what have I gotten myself into? A personal observation. In no way at any time did Mr. Sullivan ever make any threatening statements to me.

**Mr. Touhey.** Thank you, Mr. Chairman.

**Chairman Inouye.** Thank you. Mr. Barbadoro, would you care to follow?

**Mr. Barbadoro.** Only, Mr. Chairman, to say—I did not mean to suggest in any of my questions that you were in any way threatened by Mr. Sullivan.

**Mr. Robinette.** Never.

**Mr. Touhey.** We accept that. Thank you.

**Chairman Inouye.** Senator Boren.

**Mr. Boren.** Thank you, Mr. Chairman.

Mr. Robinette, I believe you testified that at one time for a brief period you were employed by a company known as EATSCO, is that correct?

**Mr. Robinette.** That is correct, sir.

**Mr. Boren.** When was that?

**Mr. Robinette.** I believe it was September 1981 to January 1982. This is recollection.

**Mr. Boren.** Right. And was Mr. Clines one of the owners of EATSCO?

**Mr. Robinette.** I don't know if he was an owner, but he certainly was a principal working there.

**Mr. Boren.** He was a principal involved.

Mr. **Robinette**. He was one of the principals. There were two, to my recollection.

Mr. **Boren**. I believe the other was an Egyptian named Salaam, was that right?

Mr. **Robinette**. Yes, sir. That is correct.

Mr. **Boren**. And the court record would indicate that Mr. Clines was a 49 percent owner in the company.

Mr. **Robinette**. Yes, I don't know that, but I am sure the court records are correct.

Mr. **Boren**. Are you aware that EATSCO and its president, Mr. Salaam, pleaded guilty to criminal charges for submitting fraudulent billings to the U.S. Government?

Mr. **Robinette**. Yes, I read that in the news media, sir.

Mr. **Boren**. Are you aware that in February 1984, Mr. Clines through one of his corporations paid a $100,000 fine in connection with the EATSCO matter?

Mr. **Robinette**. Yes, sir, I am aware of that.

Mr. **Boren**. Now, I call your attention to exhibit 10, which is in front of you. It is a receipt, indicates it is a receipt for a $33,000 cashier's check, which you allegedly received from General Secord in February of 1984. Have you seen that receipt before?

Mr. **Robinette**. It was shown to me recently, about 3 weeks ago, a reporter called me up and said that the government had it as evidence, and the reporter wanted to ask me questions about it.

Mr. **Boren**. Does that appear to be a receipt which you issued and which you signed for?

Mr. **Robinette**. Yes, sir. I wrote the receipt.

Mr. **Boren**. You wrote the receipt?

Mr. **Robinette**. Yes, and gave this to General Secord.

Mr. **Boren**. You gave this receipt to General Secord?

Mr. **Robinette**. Yes, sir.

Mr. **Boren**. Now the receipt said the check you received was made out to Tom Clines, is that correct?

Mr. **Robinette**. Yes, sir.

Mr. **Boren**. And how did you come to receive this $33,000 check?

Mr. **Robinette**. Sometime prior to this date, a week or two, I can't recall back in 1984, February of 1984, but Mr. Clines called me or told me that he, Mr. Clines, was going to be away for a week or two and that he had made prior arrangements with General Secord to obtain a loan of $34,000 and would I be kind enough to pick it up and put it in a bank that Mr. Clines identified with a lady's name and so forth.

Mr. **Boren**. Who was to receive it at the bank?

Mr. **Robinette**. Who was to receive it at the bank?

Mr. **Boren**. Where did you receive this check?

Mr. **Robinette**. I called General Secord up telling him that I was going to pick up the check. I didn't know General Secord well at that time, we had only been social—and we met on the parking lot of the bank where Mr. Clines had his account in Virginia.

Mr. **Boren**. What happened when you met with General Secord there in the parking lot?

Mr. **Robinette**. General Secord gave me a check for $33,000, which was kind of surprising because I had handwritten a note in case he wanted a receipt, I didn't think he would, but, as you can see, I made a change to $33,000 and then initialed it.

At that time, General Secord said, yes, he wanted a receipt. So I subsequently gave it to him, and he left. I went into the bank, met with the woman whose name Mr. Clines had given me and gave her the check for deposit in Mr. Clines' account.

Mr. BOREN. Did you have any conversation with General Secord at the time you met with him other than just his asking for the receipt and your providing it?

Mr. ROBINETTE. That is about it. He asked me, "When do you think I am going to get paid?" And I said I don't know when he was going to get paid. I don't know what it was about.

Mr. BOREN. Could General Secord have walked into the bank himself and done the same thing you did? In other words, you are meeting out in this parking lot, and he is giving you a check, all you did with the check was walk into the bank and hand it to this particular individual and walk back out. Couldn't General Secord have done that himself?

Mr. ROBINETTE. I think he could have, and this question has come up earlier. I think what Mr. Clines' motive was, or the purpose, was to have me ramrod it—have him give it to me and actually do it, that I think he felt more comfortable with having the money loaned as agreed upon under those circumstances.

Mr. BOREN. But he didn't explain to you in detail why he wanted you, Mr. Clines didn't explain that?

Mr. ROBINETTE. No, sir, he did not.

Mr. BOREN. Mr. Edwin Wilson has alleged that this check was used by Mr. Clines to pay a portion of his fine, the $100,000 which was also paid in February, paid in the same month to the U.S. Government in the EATSCO case. Do you have any evidence to support this allegation that this might have been a one-third share of the fine that Mr. Clines paid in that case?

Mr. ROBINETTE. No, sir, I have no evidence.

Mr. BOREN. Let me return your attention to an article that appeared in the *Washington Post* on 6-12-87 in regard to the security equipment which has been discussed earlier that was installed at the North home.

You have testified that you were reimbursed by General Secord in amounts of $7,000 and $9,000, a total of $16,000.

Mr. ROBINETTE. That is correct, sir.

Mr. BOREN. And that General Secord obviously knew that you were installing this equipment, had installed it, and that he approved of your doing so.

Mr. ROBINETTE. I think so, yes, sir.

Mr. BOREN. In fact, you testified he also approved even of your sending the bills after the fact of these documents to Colonel North.

Mr. ROBINETTE. He didn't—he didn't comment in so many words. I just simply told him that I had sent these and also received the other correspondence, but——

Mr. BOREN. You said he said something like, "We have done the right thing."

Mr. **Robinette**. Oh, subsequently, yes, but when I had done it in December, I commented to him, and there was very little response to me.

Mr. **Boren**. Let me go back to the article in the *Washington Post* which I mentioned and quote from it. I would like to ask you, I will quote from it part by part, it quotes General Secord as saying the following: "Secord said the money for the system came from the guy who put it in—" I assume that would be you.

Mr. **Robinette**. That is me, sir.

Mr. **Boren**. And I gather that that is not true in the ultimate sense in that you were fully reimbursed.

Mr. **Robinette**. I feel I was, sir.

Mr. **Boren**. He says, "Without any blessing from me." Is it true that you did this without any blessing or implication that General Secord approved?

Mr. **Robinette**. I think that is a fair statement. I never heard General Secord at any time ever say I will—quoting General Secord—that he will pay for the system.

Mr. **Boren**. But he paid you for it.

Mr. **Robinette**. Yes, sir. But I have never heard him say——

Mr. **Boren**. Wouldn't you think that is pretty important that he did pay you 16,000, didn't that indicate that he didn't disapprove of your putting it in?

Mr. **Robinette**. Of course, sir.

Mr. **Boren**. He says, "Without any financial assistance from me", let me read this statement again, "The money for the system came from the guy who put it in without any blessing from me and without any financial assistance from me."

That is not true, is it?

Mr. **Robinette**. No, I was reimbursed for the system.

Mr. **Boren**. "We had nothing to do with it", he said. So there was a reimbursement, there was discussion of it, attendance at some meetings, so that would also be untrue, would it not?

Mr. **Robinette**. I feel so, sir.

Mr. **Boren**. Let me turn to your relationship with Colonel North and what has been called Project Democracy, the supply operation in Central America. Are you aware of the fact that on July 25, 1986, Colonel North wrote a memorandum, which has since been declassified, to Admiral Poindexter discussing your contacts with a certain individual and that this memo referred to you as the security officer for Project Democracy? Are you aware of that?

Mr. **Robinette**. I just heard of it this week, sir.

Mr. **Boren**. Were you the security officer for Project Democracy?

Mr. **Robinette**. No, sir. I have never heard of Project Democracy, and until this—until it came out in the news media. I don't know what it is, even today.

Mr. **Boren**. Were you involved in that operation in any way?

Mr. **Robinette**. I don't know—no, sir, I don't know anything about Project Democracy, I don't know anything about it.

Mr. **Boren**. Have you had frequent conversations in the past with Rob Owen?

Mr. **Robinette**. Yes, sir.

Mr. **Boren**. And what was the nature of these conversations?

Mr. ROBINETTE. Rob Owen is one of the defendants in this civil suit, along with about 28 other people, and——

Mr. BOREN. This is the civil suit in Costa Rica?

Mr. ROBINETTE. Yes, it is that General Secord had asked me to provide assistance on. And Rob Owen was a name that was given to me by General Secord as a suggested source of information who could help in background preparation for this civil suit.

Mr. BOREN. What about with Mr. Quintero, have you had frequent conversations with Mr. Quintero?

Mr. ROBINETTE. Yes, I know Mr. Quintero. I might have talked to him a little bit about it, but—during 1986. I don't recall anything specific. I am sure I mentioned it to him, because he is another defendant and someone I consider extremely intelligent and alert to the kind of thing that I was trying to build up.

Mr. BOREN. From these conversations, were you not aware of the fact that there was a rather large-scale supply operation going on to provide supplies to the Contras?

Mr. ROBINETTE. No, sir, I was not aware of that.

Mr. BOREN. You were not aware that there was a supply operation going on?

Mr. ROBINETTE. No, sir. I did not know anything about Rob Owen's or Quintero's activities prior to my conversations with them.

Mr. BOREN. You mentioned that General Secord had hired you to find out information about the people who were making allegations against him and some of his associates in regard to the Central American operation. What kind of things did he ask you to do?

Mr. ROBINETTE. Well, he would give me the name of individuals who he had learned were making allegations and would say to me that he didn't even know them, as an example, and what is the basis for them saying it, and where do they fit in this picture, and who are they?

Mr. BOREN. I gather, from conversations that you had with our staff, that he wanted you to also find out unfavorable information about any of these individuals that might have been making accusations?

Mr. ROBINETTE. Something that ultimately I would put together and be giving to him and to General Secord's attorney for subsequent use in a lawsuit.

Mr. BOREN. Did you use the informal term that he wanted you to find out any dirt about them, or you were trying to find out any dirt about them if you could?

Mr. ROBINETTE. I used "derogatory," but "dirt" is just as——

Mr. BOREN. Did you sometimes make payments for or pay compensation for information about people which you were able to obtain?

Mr. ROBINETTE. Yes, sir.

Mr. BOREN. I have no further questions, Mr. Chairman.

Chairman INOUYE. Mr. Jenkins?

Mr. JENKINS. Thank you, Mr. Chairman.

Mr. Robinette, just a few brief questions, if I may.

You frequently visited the office of General Secord during 1985-1986?

Mr. ROBINETTE. 1986, sir.

Mr. **Jenkins**. And those visits were quite frequent, I assume?

Mr. **Robinette**. I tried to do it at least once a week, or twice a week, yes.

Mr. **Jenkins**. And during those visits you would occasionally see Mr. Hakim there at the offices?

Mr. **Robinette**. Occasionally, I saw him. It seems to me I saw him there towards the middle of 1986, but he wasn't there very much.

Mr. **Jenkins**. Occasionally, I believe I read in one of your statements, that you talked about going in into some business maybe?

Mr. **Robinette**. With Mr. Hakim?

Mr. **Jenkins**. Yes.

Mr. **Robinette**. No.

Mr. **Jenkins**. You didn't?

When you retired from the CIA in 1971——

Mr. **Robinette**. Yes, sir.

Mr. **Jenkins**. —in about 1975 or 1976, you had some export business, did you not?

Mr. **Robinette**. Could you clarify that, sir?

Mr. **Jenkins**. Well, with a Mr. Gunnel?

Mr. **Robinette**. No, sir, that doesn't sound familiar, but I know Mr. Gunnel.

Export?

Mr. **Jenkins**. You didn't engage in any export business at all with——

Mr. **Robinette**. With Mr. Gunnel; no, sir.

Mr. **Jenkins**. What about Mr. Wilson?

Mr. **Robinette**. No, sir. I never have been in business with Mr. Wilson.

Mr. **Jenkins**. Never had any business relationship whatsoever with him?

Mr. **Robinette**. No, sir.

Mr. **Jenkins**. I noticed in your statement that you had been to Libya. What year was that?

Mr. **Robinette**. I think between 1975 and 1980; yes, sir.

Mr. **Jenkins**. You saw Mr. Wilson there?

Mr. **Robinette**. Yes, sir, on one occasion I was in the airport, and as you know, Mr. Wilson is a rather large man, and I saw him over the other side of the area where luggage was being received. It appeared that he was meeting someone coming on a domestic flight which I assumed to be from Benghazi.

I had just gotten off a flight, an international flight. I saw him and I moved back behind a large pillar so he didn't see me.

Mr. **Jenkins**. Why did you not want Mr. Wilson to see you?

Mr. **Robinette**. Well, Libya is a very small country, and as far as business activities—and I think there is a great deal of competition, and everybody knows when someone else is in the country. I felt I had a project that I was committed in, and I didn't want anyone participating in my project, period.

Mr. **Jenkins**. So you were there on a private business?

Mr. **Touhey**. Mr. Chairman, I would ask if Congressman Jenkins would be kind enough to allow Mr. Robinette to explain why he was there, given the rather sensitive nature of our relation with Libya.

I would like the record clear why he was there so there isn't any speculation on that, if you don't mind.

Mr. JENKINS. Certainly; explain.

Mr. ROBINETTE. I was working with a company who had been contacted by another organization in Texas, the organization in Texas was involved in oil activities in Libya. This is a U.S. company, of course.

They had heard that the Government of Libya was quite interested in modernizing their police department. They wanted it to be like, as an example, Saudi Arabia.

One of the points that stuck out in my mind is they wanted police cars with flashing lights and loud sirens.

In any case, they wanted to modernize the police department, and the company in Texas asked the company that I was working with if we would support that request, and in turn I was selected and made a number of trips out to Tripoli.

Mr. JENKINS. At any rate, you did not talk to Mr. Wilson at that time?

Mr. ROBINETTE. No, sir.

Mr. JENKINS. All right.

During your visits to General Secord's office, you were paid for your services for him in the private law suit. Were you paid in cash? $4,000 a month?

Mr. ROBINETTE. The payments were not regular. If anything they were irregular. But they were accurate. And the reason they were irregular was not because of anything, but simply I can attribute to lack of availability of General Secord. He was not around very much.

I usually tried to call ahead of time, but it was not unusual if I called and the girl said he would be there, I would go out there, and he wasn't there.

Mr. JENKINS. All right, I understand that.

So you would go by when you could locate him, and if he owed you $8,000 or $9,000, he would pay you?

Mr. ROBINETTE. Yes.

Mr. JENKINS. Would he pay you in cash?

Mr. ROBINETTE. Yes, sir.

Mr. JENKINS. Just go to that drawer and open it up and give you $100 bills, or $20 bills, or what?

Mr. ROBINETTE. It would be wrapped with—or with rubberbands or paper. Now, I don't know whether it all came out of a drawer. I saw he would lean down; he might——

Mr. JENKINS. It was coming for the same source every time?

Mr. ROBINETTE. That is right. Or it might be an attache case on——

Mr. JENKINS. $100 bills, generally?

Mr. ROBINETTE. I can't accurately recall. There were certainly $100 bills there, yes.

Mr. JENKINS. All right, sir.

You were not ever asked to cash any checks in behalf of General Secord, traveler's checks, or any other checks?

Mr. ROBINETTE. No, sir.

Mr. JENKINS. Into cash; were you?

Mr. ROBINETTE. No, sir, never.

Mr. **Jenkins**. Let me ask you briefly—and I think I understand the telephone call from Colonel North before you sent the two bills to him, that you have already testified to—you indicated to counsel that you didn't say anything to him at the time that, "Colonel, your bill is already paid," which seems a bit unusual to me unless both you and Colonel North, of course, knew that the bill had already been paid. Isn't that the only possible reason that you would not say something to him?

Mr. **Robinette**. I don't know what Colonel North's thinking was at that time, but I felt that with the unfavorable publicity regarding Colonel North that he had a motive in mind when he called me, and my response, as I say, might have been one of emotion, or heart, but I did it.

Mr. **Jenkins**. I understand you did it. But what I am trying to get to, you not only sent him a bill, you sent him two bills to make it appear that you had been dunning him on more than one occasion.

Why did you decide to send him two bills if you had not discussed it with Colonel North?

Mr. **Robinette**. At my own—my own idea, nothing, no discussions with Colonel North or General Secord. I simply did it at that time, as I think I commented earlier, reflecting the one in July, when the installation was complete, and the one in September, when I felt that the installation was operating satisfactorily. Because of that period between July and September there had been some malfunctions.

Mr. **Jenkins**. I can understand if he had been sent a bill and he called you and told you he lost a bill and he needed to reconstruct this, so he would like to have copies of those bills, but he didn't do that, because you had never sent him a bill anyway?

Mr. **Robinette**. That is correct, sir.

Mr. **Jenkins**. You had already been paid.

Mr. **Robinette**. That is correct, sir.

Mr. **Jenkins**. No reason to send a bill?

Mr. **Robinette**. Correct, sir.

Mr. **Jenkins**. And you didn't—the only reason you didn't discuss the fact that you had been paid, obviously, which is hard for a lot of people, including myself, to understand, is that you knew that Colonel North knew that you had already been paid; isn't that correct?

Mr. **Robinette**. I can't say that as a truth, sir. I don't know that Colonel North knew that.

Mr. **Jenkins**. What is your opinion?

Mr. **Robinette**. I have no idea, sir. I only know that I had been paid, and that I responded to Colonel North's request.

Mr. **Jenkins**. And when you got the two letters back from Colonel North in the same envelope dated on 6 months, and 3 months previously——

Mr. **Robinette**. Yes, sir.

Mr. **Jenkins**. —you looked at those letters and decided that at that time this was simply a construction of a record for Colonel North; is that correct?

Mr. **Robinette**. I don't know what his intent was. It came as a surprise to me.

I didn't think it was necessary, but——

Mr. **Jenkins**. Well, are you aware of the fact that there is a statute that prevents a Federal employee from receiving a supplemental; any salary from a private source for services that he has rendered?

Mr. **Robinette**. No, I am not personally aware of that.

Mr. **Jenkins**. Why do you think that Colonel North was trying to establish that he had paid for this $16,000 operation?

Mr. **Robinette**. I don't know.

Mr. **Jenkins**. Himself?

Mr. **Robinette**. I don't know what his motive was, sir. He simply asked me to respond, and I did. I don't know what his motive was.

Mr. **Jenkins**. You have no idea what his motive was?

Mr. **Robinette**. No, sir, he never said anything more than what I have testified here.

Mr. **Jenkins**. But after you had performed accordingly, General Secord said that you had done the right thing, and Colonel North's attorney said that you ought to get an attorney?

Mr. **Robinette**. Yes, sir.

Mr. **Jenkins**. Thank you, Mr. Chairman.

Chairman **Inouye**. Mr. Hyde.

Mr. **Hyde**. Thank you, Mr. Chairman.

Let me see if I can get a fix on where we are now.

Mr. **Robinette**. Yes, sir.

Mr. **Hyde**. Apparently the law, as we have been told by counsel and others, is that a military person, a lieutenant colonel in the Marine Corps, is supposed to live on his salary and not accept gratuities, gifts, emoluments, from other sources; his salary is it. And apparently if Colonel North accepted a $13,900 gift from Secord or anybody else, we got him. He has broken the law, the Federal law, and we are beginning to zero in on Colonel North.

So I think that is where we are, as I interpret it.

This wasn't a Porsche or a couple of Rolexes or a private plane; this was a security system around Colonel North's home. Is that correct, Mr. Robinette?

Mr. **Robinette**. That is correct, sir.

Mr. **Hyde**. How many children does Colonel North have?

Mr. **Robinette**. He has four lovely children.

Mr. **Hyde**. What are their ages approximately?

Mr. **Robinette**. I am going to say 1 now must be around 17, and the youngest is a little girl about 5, 6.

Mr. **Hyde**. Five or six, seventeen, and then scattered in between?

Mr. **Robinette**. Yes. I don't actually recall their ages.

Mr. **Hyde**. All right. And what is the salary of a lieutenant colonel; do you know?

Mr. **Robinette**. No, sir. I have no idea.

Mr. **Hyde**. Now, Colonel North's work at the National Security Council involved dealing with the terrorist problem around the world; is that not so? Were you aware of that?

Mr. **Robinette**. I was not fully aware of that, but I have subsequently learned about it in some of these hearings.

Mr. **Hyde**. You followed the press accounts of Colonel North?

Mr. **Robinette**. Yes, sir.

**Mr. Hyde.** And you have learned that terrorism was one of his assignments?

**Mr. Robinette.** Yes, sir.

**Mr. Hyde.** Also hostages—have you learned that he is—was directly involved in the hostage problem in the Middle East? Is that correct?

**Mr. Robinette.** Yes, sir.

**Mr. Hyde.** And you have also learned that he was involved in the Central American policy of assisting the Democratic Resistance down there, that was one of his concerns and assignments.

**Mr. Robinette.** Yes, sir.

**Mr. Hyde.** Is that correct?

**Mr. Robinette.** Yes, sir, it is, sir.

**Mr. Hyde.** Mr. Robinette, have you ever received a threat over the telephone from some anonymous person?

**Mr. Robinette.** I have gotten some what I—I don't know if it is a threatening phone call, but since I have participated in this activity in March I have gotten several phone calls that I would consider not complimentary.

**Mr. Hyde.** Well, can you—we often ask witnesses at these hearings to conjecture as to somebody else's state of mind. We do that regularly. So I am going to indulge myself, since the Rules of Evidence don't apply here; we have figuratively shredded them.

Let me ask you, Mr. Robinette, can you imagine or speculate, since you spent a career in the CIA dealing with matters of security, what a woman with four kids home alone, what her state of mind might be when the telephone rings and she gets a threatening phone call?

Can you imagine what her state of mind might be?

**Mr. Robinette.** I can only relate it to Mrs. North, and she impressed me as someone extremely concerned about her husband and her family, and she was alone a great deal. She didn't make any complaints to me, but she certainly seemed like a lovely lady and excellent mother and there have——

**Mr. Hyde.** I understand that. It is the state of mind, when you've got four kids in the house and you get threatening phone calls.

What about flashing lights? It is night time, your husband is not around, you've got kids in the house and somebody out there in the boondocks is flashing lights in your window. That could be harassment, as counsel said, just like puncturing the tires could be harassment, or pouring sand into the gas could be harassment, or leaving packages with garbage in them at the mailbox could be harassment.

It could be pretty damn scary too, couldn't it?

**Mr. Robinette.** Yes, sir, very much so.

**Mr. Hyde.** How do you puncture a tire? You take an ice pick or you take a hatchet or something like that? Is that how tires get punctured?

**Mr. Robinette.** Yes, sir.

**Mr. Hyde.** Now, Colonel North—by the way, Mr. Robinette, are you aware that the Naval Investigative Service is providing protective services to Colonel North and his family?

Mr. **Robinette**. Yes. The news reporters called me up shortly after they went out there and asked me if I knew anything about it.

Mr. **Hyde**. Are you aware that threats have been received by Colonel North that are judged to be credible threats by the Naval Investigative Service?

Mr. **Robinette**. No, sir, I don't know anything about that.

Mr. **Hyde**. Are you aware that his family was once moved to a military base because of threats?

Mr. **Robinette**. No, sir.

Mr. **Hyde**. You are not aware of that.

Mr. **Robinette**. No, sir.

Mr. **Hyde**. While these threats are in progress to this man and his family, and he is not home an awful lot, I guess one could say the need for a security system around his home was immediate. That would be anybody's state of mind who had to endure a situation like that, correct?

Mr. **Robinette**. I agree, sir.

Mr. **Hyde**. And, of course, the availability of the funds to install such a security system might not be so immediate. You are unaware, as I am, but you are unaware of whether or not General Secord and Colonel North had any arrangement between themselves concerning the financing of this?

Mr. **Robinette**. I know nothing about any of that.

Mr. **Hyde**. And this was a home, you said, not a military base that you were putting security into?

Mr. **Robinette**. A typical home, with children.

Mr. **Hyde**. I have no further questions.

Mr. **Touhey**. Mr. Chairman, wouldn't it be permissible for Mr. Robinette to use the facilities?

Chairman **Inouye**. We will take a short recess.

[Recess.]

Chairman **Inouye**. Senator Trible.

Mr. **Trible**. Thank you, Mr. Chairman.

Good morning, Mr. Robinette.

I would like to first briefly pursue some of your earlier remarks. You were employed by the CIA for many years, were you not?

Mr. **Robinette**. Yes, sir.

Mr. **Trible**. Do you believe that a person is free to violate the law because he lives on a government salary?

Mr. **Robinette**. No, sir.

Mr. **Trible**. You weren't trying to suggest, were you, that because someone lives on a lieutenant colonel's salary, that they can violate the law?

Mr. **Robinette**. No, sir.

Mr. **Trible**. Did Mr. North, if endangered, have a right to secure government protection?

Mr. **Robinette**. Would you repeat that, sir?

Mr. **Trible**. If Colonel North was endangered or the safety of his family, did he have a right to call on the government for protection?

Mr. **Robinette**. I think he would, sir.

Mr. **Trible**. And the fact is that he had received government protection, according to your testimony?

Mr. **Robinette**. Yes.

Mr. **Trible**. And that is paid for by the taxpayers and the government?

Mr. **Robinette**. Yes, sir.

Mr. **Trible**. That is a correct way of doing business?

Mr. **Robinette**. Yes, sir.

Mr. **Trible**. Let me turn to your relationship with Mr. Secord. In 1986, you received over $30,000 in cash from Mr. Secord for your investigative work and for security work; is that true?

Mr. **Robinette**. Yes, sir.

Mr. **Trible**. That seems like a lot of cash to me. Did you normally receive payments in cash from your other clients?

Mr. **Robinette**. Never, sir.

Mr. **Trible**. Never.

Well, now, what did you do normally when you received this cash? Did you deposit it to your bank account?

Mr. **Robinette**. I might, but generally, I just kept it in a secure container.

Mr. **Trible**. You kept it where sir?

Mr. **Robinette**. In a secure container.

Mr. **Trible**. Where was that container?

Mr. **Robinette**. In my home.

Mr. **Trible**. In your home?

Mr. **Robinette**. Yes, sir.

Mr. **Trible**. So you didn't deposit it in the bank, you kept it at home?

Mr. **Robinette**. Yes, sir.

Mr. **Trible**. When you received the cash, did you sign a receipt for the cash payments?

Mr. **Robinette**. No, sir.

Mr. **Trible**. Did you keep a record of the cash payments that you received from General Secord?

Mr. **Robinette**. No, sir.

Mr. **Trible**. Did General Secord give you a tax statement at the end of the year?

Mr. **Robinette**. No, sir.

Mr. **Trible**. Have you reported that income?

Mr. **Robinette**. Yes, sir.

Mr. **Trible**. In 198——

Mr. **Robinette**. 1986 I filed a request for extension of payment, but it is reported accurately.

Mr. **Trible**. When did you file that statement?

Mr. **Robinette**. Sometime in early 1987.

Mr. **Trible**. Now, you reported in your earlier testimony that in December of 1986, you talked to General Secord and you reported to him then that you had sent bills to North and that you had received letters back; is that correct?

Mr. **Robinette**. That is correct, sir.

Mr. **Trible**. What was his reaction to that statement?

Mr. **Robinette**. He was noncommittal. He just simply said, "That is good, fine."

Mr. **Trible**. Now, didn't he express surprise in view of the fact that he had paid in full for these services?

Mr. **Robinette**. No, I don't recall him expressing surprise or showing surprise.

Mr. **Trible**. Did he indicate to you that you had done something wrong?

Mr. **Robinette**. No, sir.

Mr. **Trible**. Now, isn't it a fact, Mr. Robinette, that these bills that you sent, the exchange of correspondence, was intended not just to protect Lt. Col. North, but also General Secord as well?

Mr. **Robinette**. I think that is a fair comment to say, sir. I think my principal objective, my point was to assist, help Colonel North, but it is certainly true that it would assist General Secord.

Mr. **Trible**. Now, you reported further that on March 17th, you had lunch with Colonel North and then drinks following lunch with General Secord?

Mr. **Robinette**. That is correct, sir.

Mr. **Trible**. At that time, again the—there was a brief discussion about the exchange of correspondence with Lt. Col. North?

Mr. **Robinette**. Yes, sir.

Mr. **Trible**. Tell us again what was said there by General Secord and what did you say.

Mr. **Robinette**. In the bar—it was a very brief meeting, as I commented earlier. General Secord appeared to be in a hurry, and came in and commiserated with me about the publicity. I think that was most of the conversation, if I were to lump it together. And then as sort of a closing remark or a brief remark, he simply said, "You sent bills, didn't you? That is good."

Mr. **Trible**. Earlier you indicated he also said that you had done the right thing.

Mr. **Robinette**. Yes, yes. That is correct, sir.

Mr. **Trible**. Now, Mr. Robinette, do you believe today that you did the right thing here?

Mr. **Robinette**. In sending the bills to Colonel North?

Mr. **Trible**. Yes.

Mr. **Robinette**. No, I wouldn't be sitting here if I——

Mr. **Trible**. You indicated that you had led from the heart in responding as you did.

Mr. **Robinette**. Yes, sir.

Mr. **Trible**. Because of your concern about the North family and your affection for the family.

Mr. **Robinette**. Yes, sir.

Mr. **Trible**. Isn't it true though that you had to use your brain in order to undertake this enterprise, that it was a rather well-orchestrated effort to conceal the truth, to mislead the authorities, to protect Colonel North and General Secord?

Mr. **Robinette**. Yes, I was the one who sent the documents, yes.

Mr. **Trible**. So it really was more than just a sympathetic response. Isn't it true that here we have action calculated to deceive?

Mr. **Robinette**. Yes, sir, that is correct.

Mr. **Trible**. You were an old hand at the CIA. You knew what you were doing, did you not?

Mr. **Robinette**. It was done—yes, I do, but as I said earlier, to have someone like Colonel North call me and knowing that he was under extreme pressures, bad publicity, I guess I felt some personal concern for him.

Mr. Trible. Mr. Robinette, I thank you for your testimony. I think you have been very straightforward today. I would simply observe that the evidence here establishes that a government official received a substantial gratuity to which he was not entitled, that the gratuity was paid at least in part from funds generated by the sale of arms to Iran, and that you and Colonel North and General Secord endeavored to mislead and to cover your tracks.

It is troubling, I know to all of us, that we have to be here today, to you and to your family. What we see here it seems we see here a confusion of the public and private interest and all this demonstrates once again the corrosive and corrupting effect of generating operations without checks and balances.

Thank you, and thank you, Mr. Chairman.

Chairman Inouye. Senator Mitchell?

Mr. Mitchell. Thank you, Mr. Chairman.

Mr. Robinette, in response to earlier questions this morning, you talked about the security needs of Colonel North's family. You were asked about his wife and children. How did it protect the physical security needs of Colonel North's family for you to prepare those phony bills?

Mr. Robinette. I don't think that provided any physical protection to them.

Mr. Mitchell. And how did it protect the physical security of Colonel North's family to prepare those phony letters in response to those phony bills?

Mr. Robinette. I don't think there was any protection there, no.

Mr. Mitchell. They had nothing to do with that, did they?

Mr. Robinette. No, sir.

Mr. Mitchell. When you were originally contacted by this committee and the Independent Counsel, you refused to answer questions on the ground that your testimony might incriminate you, and then after you were granted immunity and your testimony compelled, you have answered questions from the counsel and this committee and here today you have answered fully, and you said in response to several questions that with respect to some of your actions, you led with your heart and not your head.

Mr. Robinette. Yes, sir.

Mr. Mitchell. From that, we learned that you now realize you did something wrong. My question is how you felt about your actions at the time they occurred, as opposed to the present?

Now, you had been a government employee for many years. You knew, didn't you, that it is illegal for a public official to receive anything of value for or because of any official act performed by that government official?

Mr. Robinette. Yes, sir.

Mr. Mitchell. You knew that?

Mr. Robinette. Yes, sir.

Mr. Mitchell. And you knew it was wrong to prepare those phony bills, didn't you?

Mr. Robinette. Yes, sir.

Mr. Mitchell. The purpose of those phony bills was to cover up what you were aware was at least wrong and possibly illegal?

Mr. Robinette. That is correct, sir.

Mr. MITCHELL. And that—and you said earlier the preparation of those documents, the elaborate pre-dating, the letters by Colonel North which fabricated two options payments which had never been discussed—those had nothing to do with the physical security of Colonel North's family, did they?

Mr. ROBINETTE. No, sir.

Mr. MITCHELL. And they were entirely directed toward creating a false and misleading impression as to actions that were wrong, isn't that correct?

Mr. ROBINETTE. That is correct, sir.

Mr. MITCHELL. Thank you, Mr. Robinette.

Thank you, Mr. Chairman.

Chairman HAMILTON. Mr. Rodino?

Mr. RODINO. Thank you very much, Mr. Chairman.

I have just two questions, Mr. Robinette, along the same lines you have been now responding to the previous members of this panel. When you received those letters from Colonel North representing the various options which he said would be a method of payment and suggesting that you should send him bills, did you call him back to tell him that you had been paid?

Did you ask him why he wanted those bills sent to him?

Mr. ROBINETTE. No, sir, I did not, sir.

Mr. RODINO. Did you think you had an obligation to him?

Mr. ROBINETTE. An obligation to tell him, sir?

Mr. RODINO. Yes.

Mr. ROBINETTE. No. He called—it was my understanding or my feeling that at that time when he called me, he had a reason in mind.

Mr. RODINO. I know, but you knew that you had already been paid, and I don't like to rehash this, but you have got to be, Mr. Robinette, as truthful as you are trying to be now, I think that you have got to recognize that you failed at that time, having received those requests from him, to even make an inquiry of him, to ask him, "Why do you want this? You know that if I do send you a bill at this time, I am going to be misleading whoever is going to be inquiring about this matter."

Yet, you failed to do so, isn't that correct?

Mr. ROBINETTE. Yes, sir.

Mr. RODINO. You failed to do so, because you say as a matter of heart again, you felt sorry for him, but you knew that this was, in effect, actually not only a misrepresentation, a false statement that you then were going to be entering into, isn't that correct?

Mr. ROBINETTE. Yes, sir.

Mr. RODINO. And yet, you did so?

Mr. ROBINETTE. Yes, sir.

Mr. RODINO. To protect him?

Mr. ROBINETTE. Yes, to help and assist him and to protect him.

Mr. RODINO. Help and assist, let's be honest, you knew that something was wrong and you deliberately then decided that these letters would serve, whether you want to describe it as a cover, but serve as a cover, as a means of protecting whether Colonel North or Mr. Secord or whoever, isn't that correct?

Mr. ROBINETTE. That is correct, sir.

Mr. RODINO. I think it is about time that the witnesses who come before this committee, while they represent that they come here, and most of them under a grant of immunity, before this committee don't dissemble when they do come and at least in response to the questions, as difficult as it may be to tell the truth, tell the truth.

It seems to me that what we are confronted with in this whole process of examination is to try to get at the truth, because so much of what has gone on has been a dissembling and an attempt to mislead the Congress and mislead the people.

I know that maybe I shouldn't be speechifying in this manner, but it seems to me that frankly, Mr. Robinette, you along with the others who have been involved at this time, recognizing that this committee has offered itself—has offered you and others the opportunity to appear before this committee and to on occasion be immunized, that the least you can do is to attempt to help the committee and try to get at the truth, because otherwise, this is going to be an exercise in futility.

Thank you very much, Mr. Chairman.

Mr. TOUHEY. Mr. Chairman, with great personal respect for Chairman Rodino, my client has testified no fewer than six times in response to questions that his purpose was to protect Colonel North, and I object to a characterization of my client not telling the truth. My client has been very candid with this committee and will continue to be.

Chairman INOUYE. Your objection is noted, sir.

Senator Cohen.

Mr. COHEN. Thank you, Mr. Chairman.

Mr. Robinette——

Mr. ROBINETTE. Yes, sir.

Mr. COHEN. —how many times did you actually meet with Colonel North during the period of time that you first discussed the security system and its actual conclusion with respect to the sending of the letters to Oliver North?

Mr. ROBINETTE. I would guess twice, sir.

Mr. COHEN. And both of those occasions were quite brief, were they not?

Mr. ROBINETTE. Very brief.

Mr. COHEN. He is a busy man. You said, I think, maybe 5 minutes maximum at the time you met with him?

Mr. ROBINETTE. Yes, sir.

Mr. COHEN. And yet you felt an immediate kinship toward Oliver North because he was involved in serious-minded matters?

Mr. ROBINETTE. Yes. The meetings were brief but, as I think everyone will find out, Colonel North has a great deal of magnetism, and I think he——

Mr. COHEN. Well, I think it's clear you are not the only person to fall under the spell of Colonel North. We have Albert Hakim, as a matter of fact, who spent a very brief time with Colonel North, and yet he also felt a sincere obligation to protect his family, not in a security sense, but in a financial sense. So you are not the only gentleman to have fallen under the spell of Oliver North.

But I would just point out that while you indicated that you yielded to passion rather than to principle, your heart instead of your head, submitting false bills, false statements and, indeed, false amounts—you didn't indicate the true amount that was required, you put $8,000——

Mr. **Robinette**. Correct.

Mr. **Cohen**. —to correspond with the initial statement that he made, you blamed yourself for the delay in submitting the bills so you proposed a ready-made excuse for Oliver North in your own letter, did you not?

Mr. **Robinette**. Yes, sir.

Mr. **Cohen**. Let me ask you whether or not it was a case not only of concern for Oliver North's family, which you are fond of, but also being indebted to General Secord?

Mr. **Robinette**. I think there is some truth in that, certainly, sir.

Mr. **Cohen**. Because, after all, he is providing you, or was providing you, with a major source of income to your company, was he not?

Mr. **Robinette**. He certainly was, sir.

Mr. **Cohen**. It was $4,000 a month. I think you indicated in previous testimony before the committee that generally you took in about $7,000 through the company——

Mr. **Robinette**. Yes, sir.

Mr. **Cohen**. —without General Secord. So he was a major benefactor to your company as such.

Mr. **Robinette**. A principal, yes, sir.

Mr. **Cohen**. I assume that you wanted to protect that relationship as well when you decided to phony up the bills and the statements, that that was a relationship that you had very much in mind as well?

Mr. **Robinette**. I commented earlier that I think my response was immediate to Colonel North because that was what was in my mind, but I am sure there was a subliminal desire to protect General Secord, too.

Mr. **Cohen**. Not only to protect him, but continue your relationship with him in a business sense?

Mr. **Robinette**. Yes, sir.

Mr. **Cohen**. Certainly General Secord was in a position to continue to supply you with business indeed as he did by asking you to perform certain investigative functions?

Mr. **Robinette**. Yes, sir.

Mr. **Cohen**. I notice that there is a dramatic difference in tone and substance in the letter dated May 18, 1986, addressed to you, and the letter dated October 1, 1986. Did you happen to catch that when you read it?

Mr. **Robinette**. May I glance at this first?

Mr. **Cohen**. Please.

If I could just call your attention to it as you are reading it—several things stood out to me. The first letter—and, by the way, you received both of these documents in the same package at the same time?

Mr. **Robinette**. Yes, sir.

Mr. **Cohen**. The first letter, May 18, strikes me as being very formal, very legalistic in its form, very structured. It uses—in addition to being false, it uses words like "aforementioned," a letter indication of intent, very legalistic terms, signed "Sincerely, Oliver L.

North," the full name spelled out. And the second letter received the same day, dated October 1, 1986, 6 months later, says, "Dear Glenn." There is a dramatic informality about this relationship. In fact, you only met the man twice, but now you are no longer Mr. Robinette, you are "Dear Glenn," and it talks about Betsy and Stuart, the girls, and Tait, and we have some broken e's, and "Warm regards," and signed Ollie.

How do you account for the difference in the tone and substance of that letter?

Mr. ROBINETTE. I don't know, sir.

Mr. COHEN. You were in the CIA for some 20 years?

Mr. ROBINETTE. Yes, sir.

Mr. COHEN. Technical services?

Mr. ROBINETTE. Yes, sir.

Mr. COHEN. And part of the Technical Services would be to establish forged documents?

Mr. ROBINETTE. That is a fair comment, sir.

Mr. COHEN. That is just a small part of it, I might add.

Mr. ROBINETTE. Yes, sir.

Mr. COHEN. Didn't it strike you, on the face of this, this was a deliberate attempt to simulate a different time for the drafting of these letters?

Mr. ROBINETTE. It probably occurred to me, sir.

Mr. COHEN. No further questions.

Chairman HAMILTON. Mr. Courter.

Mr. COURTER. Thank you, Mr. Chairman.

You testified earlier, Mr. Robinette, about the fact that there were threats at the North home, and some of those threats included slashed tires, lights blinking on and off outside the house, sand inside a gas tank, packages delivered to the mailbox.

Is that a full characterization of the threats as related to you?

Mr. ROBINETTE. There probably were some phone calls, obscene or threatening. I believe that is about it.

Mr. COURTER. Were the phone calls—do you know whether they were obscene, or whether they were threatening?

Mr. ROBINETTE. Threatening.

Mr. COURTER. Who told you about the phone calls—let me ask you that question.

Mr. ROBINETTE. I think General Secord mentioned it to me, initially, the first time he discussed implementing the security system at Colonel North's residence. Subsequently, I either heard it from General Secord and Colonel North in a more detailed fashion.

Mr. COURTER. Did you ever talk to Mrs. North about any of these threats?

Mr. ROBINETTE. I touched on it, but Mrs. North impressed me as someone that would rather not discuss it. I think it frightened her.

I didn't feel it necessary that I carry on discussing these threats with her, that if I needed to know anything more, it is best that I get it from other sources such as Colonel North.

Mr. COURTER. By her responses and by her demeanor was it your feeling that she took these threats seriously?

Mr. ROBINETTE. Yes. She told me at one—one thing that sticks in my mind—she told me that Colonel North usually came home at midnight every night, and she kept dinner for him until that time.

And she felt—these are my words—she felt very uncomfortable until he got there, and that he ate dinner in a hurry and went to bed. And she felt much more secure, much more comfortable when he was there; but he was never there.

**Mr. Courter.** You indicated, or I believe you did, that to your understanding the government had supplied one or two security guards that slept in the garage?

**Mr. Robinette.** At some point—and I believe Colonel North mentioned this, I think it was the visit to the Old Office Building—he mentioned that he had had previously two guards who slept in his garage, and that the arrangement was quite unsatisfactory.

**Mr. Courter.** Did he indicate why the arrangement was unsatisfactory?

**Mr. Robinette.** No, he did not.

**Mr. Courter.** Did you take it by his answer that it was unsatisfactory because there were two strangers living on the premises?

**Mr. Robinette.** I would say that that seems accurate.

**Mr. Courter.** How far was his garage from his house?

**Mr. Robinette.** It was part of the residence.

**Mr. Courter.** It was attached to it?

**Mr. Robinette.** Yes.

**Mr. Courter.** In March of 1987, bringing you to that particular point, you went upon request of Oliver North to his attorney's office; is that correct?

**Mr. Robinette.** That is correct, sir.

**Mr. Courter.** And you indicated that you had a meeting about 40 minutes. Colonel North was on the phone about half the time and the conversation you had with him was very short?

**Mr. Robinette.** Yes, sir.

**Mr. Courter.** He asked you why you were in the office, and after the luncheon, for copies of the documents, those documents being the four letters?

**Mr. Robinette.** No, he never asked me for copies.

**Mr. Courter.** Did the attorney then ask you for those copies?

**Mr. Robinette.** Yes, when we left the luncheon Colonel North took me upstairs to his attorney's office and the attorney asked me if, did I bring the documents. I showed them to him. He said "may I make copies?" And I approved.

**Mr. Courter.** Did the attorney ask for the originals, or just to make copies?

**Mr. Robinette.** No, he asked to make copies of what I had.

**Mr. Courter.** He did not keep that which you gave him. He let you walk out with them?

**Mr. Robinette.** Well, I had copies and he—I don't now whether he—I mentioned earlier, I don't know whether he gave me my copies back or he kept his copies, but it is difficult to tell what is a copy of a copy.

**Mr. Courter.** I understand that. The point I am trying to make, perhaps, not too clearly, is the following: did either—it is a legitimate question—did either Oliver North or his attorney, in essence, ask you for all the copies of these documents or not?

**Mr. Robinette.** No, they just—they asked me for the ones that I had.

**Mr. Courter.** Thank you.

Did either of them, either the attorney or Oliver North suggest or ask you to testify in a certain way with respect to those documents?

Mr. ROBINETTE. Never, sir. Never.

Mr. COURTER. I have no further questions.

Chairman INOUYE. Thank you.

Senator Hatch.

Mr. HATCH. Thank you, Mr. Chairman.

Mr. Robinette, I just want to ask you a few questions to be sure I am clear on a few points.

As I understand your testimony, you were contacted by Oliver North in December 1986; is that correct?

Mr. ROBINETTE. Yes, sir.

Mr. HATCH. And at that time Colonel North asked you for bills for the security system?

Mr. ROBINETTE. To bring bills; yes, sir.

Mr. HATCH. And at that time you had already been paid for the security system?

Mr. ROBINETTE. Correct, sir.

Mr. HATCH. Did you mention at that time to Colonel North, did you tell him that I have already been paid, or words to that effect?

Mr. ROBINETTE. No, sir.

Mr. HATCH. You didn't say a thing about that?

Mr. ROBINETTE. No, sir.

Mr. HATCH. Did Colonel North tell you to backdate the bills?

Mr. ROBINETTE. No, sir, that was my doing.

Mr. HATCH. And why did you feel you had to backdate the bills?

Mr. ROBINETTE. It was an effort to be helpful to Colonel North, one was, I think the bill in July was to show that it was done approximately, that that was approximately the time that the system was completed. And the bill in September was to reflect the time that the system was operating satisfactorily?

Mr. HATCH. If you really wanted to be helpful to him, wouldn't it have been better to say the work had already been paid for? Then he could have said, if he didn't know about that, he could have said, my gosh, nobody should have paid for this?

Mr. ROBINETTE. That is correct, sir.

Mr. HATCH. Wouldn't that have been better?

Mr. ROBINETTE. Possibly, sir, but it didn't occur to me at that time.

Mr. HATCH. All right.

To your knowledge, did General Secord know that Colonel North was asking you to send these backdated bills?

Mr. ROBINETTE. No, sir.

Mr. HATCH. Did you ever tell General Secord there was no need to send the bills to Colonel North because they had already been paid?

Mr. ROBINETTE. No, sir.

Mr. HATCH. Have you ever stated to anyone that General Secord did not pay for the security system?

I am thinking in terms of Mr. Clines?

Mr. ROBINETTE. No, sir.

Mr. HATCH. Have you told Thomas Clines in the past that General Secord had not in fact paid for the system?

Mr. **Robinette**. No, sir.

Mr. **Hatch**. Did Colonel North, to your knowledge, pay for any part of the security system?

Mr. **Robinette**. Well, he reimbursed me for my payments, which I consider he paid for the system. Oh, excuse me, I am sorry.

Mr. **Hatch**. Talking about Colonel North?

Mr. **Robinette**. No, sir, he did not.

Mr. **Hatch**. Never paid a dime?

Mr. **Robinette**. No, sir. Sorry, sir.

Mr. **Hatch**. Did you realize that installation of this surveillance system could be, not only misconstrued, but could be considered a bribe under certain Federal statutes?

Mr. **Robinette**. I understand that, sir.

Mr. **Hatch**. You understand that now or——

Mr. **Robinette**. Yes, sir.

Mr. **Hatch**. Or you realized it then?

Mr. **Robinette**. I understand it now, sir.

Mr. **Hatch**. I see.

Now throughout these hearings, Mr. Robinette, I have tried to be fair to these witnesses, especially when they have been assaulted with hearsay, and, of course, based upon the anonymous statements, and so forth, but I have to tell you something: I find it a little difficult to avoid the feeling of being let down because of what you have told me here today.

Mr. **Robinette**. Yes, sir.

Mr. **Hatch**. It bothers me a great deal, and I just want you to know that.

I appreciate having this testimony, but it is very bothersome to me.

Mr. **Robinette**. Sir, this is a factfinding hearing, and I have told you the facts, to the best of my knowledge.

Mr. **Hatch**. I think you have, and I think you have been straightforward in what you have said. At least that is my belief.

Mr. **Robinette**. Yes, sir.

Mr. **Hatch**. Thank you.

Thank you, Mr. Chairman.

Chairman **Inouye**. Senator Rudman?

Mr. **Rudman**. Mr. Chairman, I just think that the record probably ought to show that for those people in America who don't understand their government very well, that people in Congress, people in the military, people in the Executive Branch receive many threats, some serious, some prank—as a matter of fact, our Chief Counsel has probably, Mr. Liman, has probably one of the greatest collections of threat letters I have seen recently.

And the government does provide protective services depending on what branch you are in. No American Government employee, be he a Congressman, Senator or a military officer or member of the government who has a threat and is working in a threat environment, has any problem in getting security.

Whether that security is at a level that is satisfactory to him, Mr. Chairman, we don't know, but let the record show that this government does not leave its employees out on a limb if they are threatened.

This government tries to protect employees. That is just an observation. Mr. Robinette, I have only one question.

Mr. ROBINETTE. Yes, sir.

Mr. RUDMAN. I listened very carefully to conversations you had in response to Senator Trible and Senator Mitchell, and the fact that at the time all these events happened with the exchange of letters, you knew this was essentially establishing what most people referred to, and I am sure you know the meaning of the term, a sham transaction. Your invoices, his letters, the whole thing was just a great story that was cooked. Isn't that correct?

Mr. ROBINETTE. Yes, sir.

Mr. RUDMAN. What would you have done if you received a check for $8,000, Mr. Robinette, from Colonel North?

Mr. ROBINETTE. I would have given it to General Secord.

Mr. RUDMAN. You would have given it to General Secord?

Mr. ROBINETTE. Yes, sir.

Mr. RUDMAN. Would you have been surprised if you had received a check for $8,000 from Colonel North?

Mr. ROBINETTE. Yes, sir.

Mr. RUDMAN. So would I. Thank you.

Chairman INOUYE. Senator McClure?

Mr. MCCLURE. Thank you very much, Mr. Chairman.

There is something in this that doesn't quite add up, and I would like to go back over a little of your testimony and see if I can indeed find what it is. You have testified that you talked to Colonel North about the security system in his office.

Mr. ROBINETTE. Yes, sir.

Mr. MCCLURE. And did you talk to Colonel North about that after that time, prior to the time you got the phone call?

Mr. ROBINETTE. I spoke to—I think the record shows I spoke to Colonel North both in the White House, a preliminary idea as to what I was going to do, and about a week later, I spoke to him in General Secord's office, being more specific and describing what I thought would be useful to fit his lifestyle.

Mr. MCCLURE. Did you talk to him about that security system between that time and the time of the phone call when he asked—when he said you had not sent him a bill?

Mr. ROBINETTE. No, sir, I did not.

Mr. MCCLURE. No conversations between you or he between those times about this system?

Mr. ROBINETTE. About that system, sir, no, nothing.

Mr. MCCLURE. You were interrogated by the counsel for these committees——

Mr. ROBINETTE. Yes, sir.

Mr. MCCLURE. —on June 17, 1987; is that correct?

Mr. ROBINETTE. Yes.

Mr. MCCLURE. Do you have a copy of that deposition before you?

Mr. TOUHEY. Yes, we do, Senator.

Mr. MCCLURE. Would you turn to pages 26–27 of the deposition, please? This reference in the deposition is to your conversations with Colonel North, is it not?

Mr. ROBINETTE. Yes, it is, sir.

Mr. McClure. Did you make an estimate to Colonel North either at his request or somebody else's request as to how much the system might cost?

Mr. Robinette. I made the reference, sir.

Mr. McClure. And how much was that reference—estimate at that time?

Mr. Robinette. It was $8,000 to $8,500.

Mr. McClure. And what did Colonel North say to you about that expense?

Mr. Robinette. As I recollect, he concurred and said, made a statement regarding that he was a poor Colonel and try to keep it around that amount of money.

Mr. McClure. Doesn't that imply to you that Colonel North was going to pay for it?

Mr. Robinette. It could be, yes, sir. Yes, sir.

Mr. McClure. Colonel North says, "Keep the costs down, I am only a poor Colonel, I live on a Colonel's pay, and how am I going to pay for an expensive security system? Please don't run the cost up above the 8,000 or 8,500 you had estimated."

Mr. Robinette. Yes, sir. At that time, that was his response.

Mr. McClure. All right, why was it then that you assumed that he didn't intend to pay for it, and that Secord was going to pay for it?

Mr. Robinette. I didn't know at that time, sir.

Mr. McClure. Well, you at some time, with no conversations with Colonel North after this time, and Colonel North at this time indicated he expected to pay for it.

Mr. Robinette. He implied—it appeared that he was going to pay for it.

Mr. McClure. It appeared, and that is the only conversation you had with him about the payment?

Mr. Robinette. Correct, sir.

Mr. McClure. And he indicated to you he expected to pay for it, and yet, at some point for some reason, you assumed he wasn't going to pay for it?

Mr. Robinette. Well, I continue to go back to General Secord for payment for my services and expenses and——

Mr. McClure. But there was no conversation with Colonel North that indicated that he didn't expect to pay for it.

Mr. Robinette. No, sir, never.

Mr. McClure. That was an assumption on your part?

Mr. Robinette. Yes, sir.

Mr. McClure. Did General Secord ever tell you that Colonel North was not going to pay for it?

Mr. Robinette. No, sir. He never told me that.

Mr. McClure. So, from the conversations you had with Colonel North, he expected to pay for it, and when got the phone call from him, he said, why haven't you billed me?

Mr. Robinette. Correct, sir.

Mr. McClure. And you assumed when he made the phone call, that he was initiating a coverup?

Mr. Robinette. I believe that is fair, sir.

Mr. McClure. Why did you assume that if the only conversation you had ever had with him was in the context that he intended to pay for it?

Mr. Touhey. Excuse me, Senator.

[Witness conferring with counsel.]

Mr. Touhey. I would like my client to review that testimony, Senator.

Mr. McClure. Certainly.

Mr. Robinette. During that conversation in which I brought up the subject of the payment, Colonel North never said he was going to pay for it.

Mr. McClure. But you assumed from what he said that he was expecting to?

Mr. Robinette. That would be a reasonable assumption, yes, sir.

Mr. McClure. Otherwise, he wouldn't have cared what it cost, would he?

Mr. Robinette. That is correct, sir.

Mr. McClure. Why did you assume when he called you that he was initiating a coverup if you had never had any indication from him that he didn't intend to pay for it, and you never had any conversation with General Secord that he didn't—that Colonel North was not to be expected to pay for it?

Mr. Robinette. Sir, would you repeat that? I got lost on that.

Mr. McClure. Colonel North indicated to you he intended to pay for it. You assumed at the beginning that was the import of what he told you.

Mr. Robinette. Yes, sir.

Mr. McClure. From that time until the time of the phone call when he said, "You haven't sent me a bill," you had had no conversations with him concerning this security system?

Mr. Robinette. Correct, sir.

Mr. McClure. And General Secord had not told you that Colonel North wasn't going to pay for it?

Mr. Robinette. Correct, sir.

Mr. McClure. But you got a phone call from Colonel North, and you assumed at that point that there was a coverup underway. Now, why did you make that assumption at that time if no one had ever indicated to you that Colonel North was not to be expected to pay for it?

Mr. Robinette. Thank you, sir. I had been paid for the system, and to receive a phone call from Colonel North asking to bill him did come as a surprise.

Mr. McClure. But it didn't surprise you enough that you asked him about it.

Mr. Robinette. To ask him about it at that time, sir?

Mr. McClure. Yes.

Mr. Robinette. No, sir. That was at a period of time when he was prominently displayed throughout all the news media, he had his hands full of problems which I would comment I would see much bigger than a security system, and if he felt it necessary to call me on the telephone to ask me to submit bills, I certainly was surprised that he needed them.

Mr. McClure. Mr. Chairman, I know my time is up, but Mr. Robinette, I cannot help but comment that there is something that disconnects between those events that doesn't make sense to me, that if you expected Colonel North to pay for it, even though General Secord had paid for it, it seems to me you should have been surprised that he called you to ask you why you hadn't sent a bill, or put it in the alternative, why would you assume at that point that a coverup was being initiated.

Chairman HAMILTON. Mr. Stokes.

Mr. STOKES. Thank you, Mr. Chairman.

Mr. Robinette, in your deposition given to this committee, you indicate that General Secord, in October 1986, requested that you make a trip to Costa Rica. At that time, he provided you with a sum of $11,000.

Mr. ROBINETTE. That is correct.

Mr. STOKES. Do you recall that?

Mr. ROBINETTE. That is correct, sir.

Mr. STOKES. Subsequently, I think on the 24th of November, you went to Costa Rica, and you returned on the 29th of November?

Mr. ROBINETTE. That is correct, sir.

Mr. STOKES. From a 5-day trip?

Mr. ROBINETTE. Yes, sir.

Mr. STOKES. What was the purpose of that trip?

Mr. ROBINETTE. To go to San Jose to talk to individuals or to—and to solicit information regarding defendants in the civil suit against General Secord.

Mr. STOKES. What was the purpose of the $11,000?

Mr. ROBINETTE. To pay for travel expenses and any expenses that I might incur in paying to sources.

Mr. STOKES. What is air fare—where did you leave from? Washington, D.C.?

Mr. ROBINETTE. Yes, sir.

Mr. STOKES. What is air fare from Washington, D.C. to Costa Rica and return?

Mr. ROBINETTE. Round trip, sir?

Mr. STOKES. Yes, sir.

Mr. ROBINETTE. Probably around $1,000.

Mr. STOKES. That leaves you about $10,000.

Mr. ROBINETTE. Yes, sir.

Mr. STOKES. And what did you do with the $10,000?

Mr. ROBINETTE. I gave it to certain people, spread it out through certain people down there.

Mr. STOKES. Well, give us an idea what you are talking about when you say you gave it to certain people, sort of spread it out.

Mr. ROBINETTE. Well, it was necessary that I get as much information as possible that would be helpful in this civil suit and I had to, in effect, pay people to tell me the information that I wanted to know.

Mr. STOKES. And how much of the $10,000 did you spend on paying people to tell you what you needed to know?

Mr. ROBINETTE. I think probably seven/eight, seven or eight thousand.

Mr. STOKES. And then you returned with about $3,000?

Mr. ROBINETTE. Two to three thousand, that is my guesstimate, sir.

Mr. STOKES. What did you do with the $3,000?

Mr. ROBINETTE. Kept it, sir.

Mr. STOKES. As income to you?

Mr. ROBINETTE. Yes, sir.

Mr. STOKES. On your calendar, which is reflected here under exhibit 1, under date July 19, you show two names, one is Buck Revell, and the other is Leonard Garment.

Do you see those?

Mr. TOUHEY. Mr. Chairman and Congressman Stokes, I have discussed previously with Mr. Liman and Mr. Barbadoro and Mr. Van Cleve and other members of the staff that there are certain matters, one of which Congressman Stokes has just touched on, that will require me to invoke the provisions of Rule 12 and respectfully request that this committee conduct the questioning on that issue in executive session.

Mr. Barbadoro has more fully described and Mr. Van Cleve to the chairman, both the majority and minority, and the reasons for that and I will have to respectfully, to Congressman Stokes, will have to direct my client not to answer the question unless we go into executive session.

Chairman INOUYE. The Chair directs the witness not to respond to that question.

Mr. ROBINETTE. Yes, sir.

Mr. STOKES. Well, if I may be heard, Mr. Chairman, firstly, all I have done is ask about two names. I asked about the name Buck Revell and the name Leonard Garment. I have not asked any questions other than re: two individuals' names.

I am not privy to whatever counsel is referring to.

Now, I would think as a member of the panel, I would be entitled to have someone inform me of some rationale or reason for my not being able to pose any questions relative to this matter.

Chairman INOUYE. May we have a short recess.

[Recess.]

Chairman INOUYE. Chairman Stokes.

Mr. STOKES. Thank you, Mr. Chairman.

Mr. Robinette, who is Buck Revell?

Mr. ROBINETTE. He, to my understanding, he is one of the Executive Directors of the FBI.

Mr. STOKES. And how long have you known him?

Mr. ROBINETTE. I don't know him, sir.

Mr. STOKES. Did you on July 19 have an appointment with him?

Mr. ROBINETTE. No, sir.

Mr. STOKES. Tell us the purpose for which his name appears on your calendar.

Mr. TOUHEY. Mr. Chairman, we are faced with the same situation. I believe that Congressman Stokes and other members of the committee have been advised of the nature of the concern that we have and I believe Mr. Barbadoro has informed the committee of more recent expression by counsel as to what our concern is.

I really cannot allow my client to answer this question, to go into this line of questioning in open session for reasons that I have explained to Mr. Barbadoro.

Chairman INOUYE. We will take this matter into executive session.

Mr. STOKES. Mr. Chairman, it was my understanding during the recess that counsel for the committee was going to talk with Mr.

Robinette's counsel. I thought by the resumption of the hearing that this matter had been worked out. I was not advised that it had not been worked out.

I am advised by Mr. Nields that he would like to speak to me regarding that, if the chair will indulge us.

Chairman INOUYE. Proceed.

[Discussion off the record.]

Mr. STOKES. Thank you, Mr. Chairman.

Chairman INOUYE. Please proceed.

Mr. STOKES. Mr. Chairman, I will at this time withdraw my question to the witness and I have no further questions.

Thank you.

Chairman INOUYE. Thank you very much, sir.

Mr. Robinette, in response to a question relating to a telephone call from the colonel in which he said, "When are you going to send me the bill?" you testified that you assumed that this was part of a coverup; isn't that correct?

Mr. ROBINETTE. Yes, sir.

Chairman INOUYE. Wasn't this assumption of yours not only clarified, but confirmed when you received the two phony letters?

Mr. ROBINETTE. Yes, sir.

Chairman INOUYE. Thank you very much.

The committee will stand in recess until 2:00 o'clock.

[Whereupon, at 12:01 p.m., the Select Committees recessed, to reconvene at 2:00 p.m., the same day.]

## AFTERNOON SESSION

The Select Committees met, pursuant to recess, at 2:05 p.m., in room 325, Russell Senate Office Building, Hon. Daniel K. Inouye (chairman of the Senate Select Committee) and Hon. Lee H. Hamilton (chairman of the House Select Committee) presiding.

Chairman INOUYE. The session will please come to order.

We have two witnesses this afternoon consisting of a panel, Mr. Noel Koch and Dr. Henry Gaffney.

Gentlemen, please rise.

Do you solemnly swear that the testimony you are about to give is the truth, the whole truth, and nothing but the truth?

Mr. KOCH. Yes.

Mr. GAFFNEY. Yes.

## TESTIMONY OF NOEL C. KOCH AND HENRY H. GAFFNEY, JR.

Chairman INOUYE. Mr. Saba.

Mr. SABA. Thank you, Mr. Chairman.

Good afternoon.

Mr. Koch, will you please state your name and your address.

Mr. KOCH. My name is Noel Koch. I live in Potomac, Maryland.

Mr. SABA. What is your current occupation?

Mr. KOCH. I am President of the International Security Management.

Mr. SABA. When did you commence that occupation?

Mr. KOCH. Approximately the same time last summer. Approximately the end of June 1986. That corporation was founded approximately July 30 of 1986.

Mr. SABA. And prior to that, you were an employee of the DOD?

Mr. KOCH. That is correct.

Mr. SABA. Could you please state the period of your employment there and your duties, sir.

Mr. KOCH. The period of employment was from March 1981 until May 1986.

During that period of time, I was the Principal Deputy Assistant Secretary for International Security Affairs. I was also the Deputy Assistant Secretary of Defense for Africa and I was a Director for Special Planning.

Mr. SABA. Could you tell us how each of those duties related if they did?

Mr. KOCH. They related completely. The Principal Deputy's job was the number two person to the Assistant Secretary for International Security Affairs. That is most usefully thought of as a mini-State Department within the Pentagon. It has within it all the regions of the world that we involve ourselves in (with the exception of Europe and the Soviet Union), East Asia Pacific, inter-America, which is the Latin region, Africa, Near East, South Asia.

We interface with the State Department on all issues of policy that affect the national defense.

Also under that was the Defense Security Assistance Agency and a variety of cats and dogs that don't need to detain us.

I was responsible for the management of that whole construct and answerable to the Assistant Secretary of Defense.

As the Deputy Assistant Secretary for Africa region, I had a deeper involvement in the daily activities of the management of our interests in Africa, all of the continent with the exception of the Northern Tier of countries, which are the Moslem countries.

Finally, the role of Director of Special Planning involved restoration of our special operations force capability, the management, implementation and oversight of all our efforts to deal with terrorism, counterterrorism and anti-terrorism programs.

Mr. SABA. Dr. Gaffney, could you state your full name and address?

Mr. GAFFNEY. I am Henry Harold Gaffney, Jr., of Bethesda, Maryland.

Mr. SABA. Could you provide us with your current position, your duties, and a brief history of your employment?

Mr. GAFFNEY. I am currently the Director of Plans of the Defense Security Assistance Agency, an agency which is an integral part of the Office of the Secretary of Defense, and reports directly to the Under Secretary of Defense for Policy.

As the Director of Plans in the Defense Security Assistance Agency, my main responsibility is to work with the State Department in putting together the security assistance budget request, to prepare testimony, and to assist in providing Congress information they need with regard to our legislation.

I also have an office which manages the worldwide permanently assigned security assistance personnel, an office which manages the Special Defense Acquisition Fund, and an office which manages large aircraft sales where there is competition between two manufacturers.

I have been Director of Plans in DSAA since August 1981, that is about 6 years.

Before that, I was the Director of the Near East-South Asia Region in the Office of the Assistant Secretary of Defense for International Security Affairs.

I have been in the Office of the Secretary of Defense since 1962.

Mr. SABA. Dr. Gaffney, can you tell us very briefly what is the primary mission of DSAA?

Mr. GAFFNEY. DSAA implements, under the direction of the administration and the State Department, the worldwide foreign military sales program and the security assistance aspects of that program.

Mr. SABA. Would you say in layman's terms that your agency is the agency primarily responsible for the sale, government to government, of arms?

Mr. GAFFNEY. That is correct.

Mr. SABA. Mr. Koch, did there come a time when you received an inquiry about HAWKs?

Mr. KOCH. That is correct.

Mr. SABA. And when and from whom, sir?

Mr. KOCH. The date was approximately 17-18 November 1985, the request came from the military assistant to the Secretary of Defense, General Powell.

Mr. SABA. That is General Colin Powell?

Mr. KOCH. That is correct.

Mr. SABA. Briefly, what is a HAWK?

Mr. KOCH. A HAWK is an anti-aircraft missile used for air defense against low-flying planes.

Mr. SABA. Would you say that it is a significant weapon?

Mr. KOCH. Yes, sir.

Chairman INOUYE. May I interrupt at this point.

The House of Representatives is having a vote at this moment. This will explain the absence of House Members.

Please proceed.

Mr. SABA. Thank you, Mr. Chairman.

I wish to enter into the record the fact that we have obtained in the past 2 weeks sworn testimony from various persons, including General Colin Powell. General Powell has testified that on or about Monday, the 18th of November or possibly Tuesday, the 19th of November, he obtained a request from either John Poindexter, Oliver North or Secretary of Defense Caspar Weinberger to obtain information about HAWK weapons, the numbers that were available and the means of transfer of those weapons, and he has testified that he presented that request initially to Mr. Koch.

Mr. Koch, what did General Powell tell you?

Mr. KOCH. His request was very broad. He asked me to find out for him where all of our HAWK missiles were and how many we had.

Mr. SABA. Did there come a time in your conversations with General Powell that you came to know the ultimate destination of these weapons?

Mr. KOCH. There did come such a time, but not in the course of that particular conversation.

Mr. SABA. Was it within the week of 18 November?

Mr. KOCH. That is correct.

Mr. SABA. What did you understand the ultimate destination of those weapons to be?

Mr. KOCH. Iran.

Mr. SABA. And was that possibly through Israel?

Mr. KOCH. It was not my understanding at the time that—when I was first made aware of the destination, any middle man or the modalities for moving them there were not known to me.

Mr. SABA. Did there come a time that week when you came to know that the weapons might be sent through Israel?

Mr. KOCH. My recollection is not clear on that. I don't think so.

Mr. SABA. Did you understand that hostages were involved?

Mr. KOCH. Yes, I did.

Mr. SABA. How did you understand that?

Mr. KOCH. After I got the initial information from Dr. Gaffney, I relayed it to General Powell with the understanding that there would be a more fulsome and written explanation of the response. I went back to General Powell and I think probably in the course of that conversation, he told me that these were for hostages.

Mr. SABA. I believe you indicate that you were essentially the Pentagon's top man in terrorism. Were you surprised by the request and by that information?

Mr. KOCH. Yes, I was.

Mr. SABA. At that time, what did you understand the administration policy was on arms to Iran?

Mr. KOCH. The policy was not to provide arms to Iran and to do everything we possibly could to isolate them in practically every other way and to prevail upon our allies as well not to provide arms to Iran.

Mr. SABA. Was this a well-publicized policy?

Mr. KOCH. Yes, it was.

Mr. SABA. What would you say was the administration's public policy at the time on arms and hostages?

Mr. KOCH. There was no specific policy, but as regarded hostages, that this was a terrorist act and it was our policy not to make concessions to people who committed terrorist acts against us.

Mr. SABA. Would you say it was fair to state that it was a policy of not trading arms for hostages at the time?

Mr. KOCH. That is correct.

Mr. SABA. Upon receiving General Powell's inquiry, what did you then do?

Mr. KOCH. I went back to the office, I called Dr. Gaffney and I asked him to come to see me, and I gave him the information that I was looking for, and I gave him, my recollection is, no further information than that.

The request was relayed as I received it.

Mr. SABA. Can you tell us the sense in which the request from General Powell was relayed to you? Was it an objective one to obtain information, or was there a negative inclination to obtain information but cast that information in a way to discourage the transaction or encourage the transaction?

Mr. KOCH. It had no value orientation initially; it was, I would like to have the following information.

Mr. SABA. Dr. Gaffney, I take it there came a time when you received information about the HAWKs. Can you tell us from whom and under what circumstances?

Mr. GAFFNEY. I was serving as the Acting Director of the Defense Security Assistance Agency at the time, and I was asked by Mr. Koch to find out where all the HAWK missiles were in the world.

Mr. SABA. And what did you do on receiving that request?

Mr. GAFFNEY. I took two steps. I went to our agency's computer, which has a record of all such government-to-government sales, worldwide, back through time, and also those which are in the pipeline, that is sales agreements had been concluded and they were awaiting delivery.

And then I went further to the Army, to our Security Assistance counterparts in the Army, to Mr. William Jackson, and asked him specifically, were there any HAWK missiles intended for foreign military sale which were now awaiting delivery in the United States?

Mr. SABA. And what occurred next?

Mr. GAFFNEY. The information came back to me, and I furnished it to Noel Koch. I believe around that time that we went down together to see General Powell.

Mr. SABA. So that you had a meeting with General Powell?

Mr. GAFFNEY. Yes.

Mr. SABA. And in the course of that meeting, did General Powell make further inquiries of you?

Mr. GAFFNEY. At a certain point in this time, I believe it was 18 or 19 November, he asked me or maybe it was through Mr. Koch to go further and find additional information regarding the modalities of transfer, how would you sell and how would you transfer these things, and what notifications would be required, et cetera.

Mr. SABA. And did you take some written notes of those requests?

Mr. GAFFNEY. I did indeed.

Mr. SABA. Would you please turn to exhibit 1 and tell us if those are the notes that you made at the time?

Mr. GAFFNEY. Those are the notes I made. I don't remember whether I took them right off the phone conversation or whether I was standing in his presence and noted these down on a pad of paper.

Mr. SABA. I take it though that these reflect as accurately as possible the request that was put to you at that time?

Mr. GAFFNEY. They would have been, in the straight column there, taken down as verbatim as I could get them as he was speaking.

Mr. SABA. And these concerned the quantity, cost, and questions as to the legalities of the transfer?

Mr. GAFFNEY. That is correct.

Mr. SABA. Dr. Gaffney, I would call your attention to the one note in the righthand side of the handwritten exhibit which "says concealed ULT," which I take it is ultimate destination. Can you tell us a bit about that notation?

Mr. **Gaffney**. To the best of my memory, it relates to the question of whether, if this was to pass to one country for transfer to a third country, that the ultimate destination could be concealed in such a transaction, and it relates down to the last point which relates to what third country transfer restrictions might exist.

Mr. **Saba**. At the time this note was prepared, did you know which countries those were?

Mr. **Gaffney**. In retrospect, I certainly knew, and I had a pretty good idea just about that time.

Mr. **Saba**. And what were the countries involved?

Mr. **Gaffney**. Iran would be the ultimate destination and presumably Israel as an intermediate destination.

Mr. **Saba**. Did General Powell ask you to put the information into a memorandum or a paper?

Mr. **Gaffney**. I understood from him, either then or shortly thereafter, that this information should be put together in a point paper for the Secretary of Defense to use at an NSC meeting.

Mr. **Saba**. I see. And did you make notations of that request in the outline of the paper?

Mr. **Gaffney**. Yes, I did. I sat down and I outlined all the topics I should cover in that point paper.

Mr. **Saba**. Would you please turn, sir, to exhibit 3 and tell us if those are the notations made in preparation for the paper?

Mr. **Gaffney**. Yes. Those are the notes I put down in terms of what I should cover in this point paper.

Mr. **Saba**. And sir, you understood that that paper would be prepared for General Powell and that General Powell would provide this to Secretary Weinberger in connection with an NSC meeting?

Mr. **Gaffney**. That is what I understood, and that NSC meeting was to be fairly soon.

Mr. **Saba**. Before we take a look at this paper, I would like to turn to exhibit 2, and I would like to provide some information for the record in order that your work can be taken in the context.

The exhibit is a PROF note dated November 20, 1985, written approximately 9 p.m., the evening before you wrote your notes. It is a note from Oliver North to John Poindexter. I will read portions of this note so that it is clear what is occurring at the time you are doing your work.

Colonel North is telling John Poindexter that "80 HAWKs will be delivered from Israel to Iran beginning the 22d of November. It is expected that five American hostages will be released and maybe one Frenchman."

He explains that "40 additional HAWKs are required, for a total of 120." He goes on on page 2 of the exhibit, "replenishment arrangements are being made through the MOD," and I believe he refers to the Ministry of Defense Purchasing Office in New York City.

> There is, to say the least, considerable anxiety that we will somehow delay on their plan to purchase 120 of these weapons in the next few days. In accordance with your instructions, I have told their agent that we will sell them 120 items at a price they can meet. I have further told them that we will make no effort to move on their purchase LOA request until we have all five American citizens safely delivered. In short, the pressure is on them.

Skipping down to paragraph 3,

> As soon as we have the release confirmed, we will need to move quickly with Defense to provide the 120 missiles the Israelis want to buy. They are very concerned that they are degrading their defense capability, and in view of the Syrian shootdown yesterday, the PM has placed considerable pressure on both Rabin and Kimche for very prompt replacement. Both called several times today.

Dr. Gaffney, to your knowledge and based on your years at DSAA, was Colonel North at the time authorized in any way to offer HAWK missiles to either Israel or Iran?

Mr. GAFFNEY. No.

Mr. SABA. Dr. Gaffney, I would like to return to your notes, which are at exhibit 3. Did you understand at the time you were preparing these notes how many missiles were being sought?

Mr. GAFFNEY. Yes. At the very beginning, the number 500 came up, but by the time a day had passed, the number had been refined to 120.

Mr. SABA. And were these for replenishment to Israel or for sale directly to Iran, or did you know?

Mr. GAFFNEY. I did not know.

Mr. SABA. Returning to your note in point three, you have a note, "legal question strongest terms." Could you explain that for us, please?

Mr. GAFFNEY. As I recall it, I was to put in the strongest terms that the sale of weapons, major defense equipment of this kind, would require very definite procedures, including notification to Congress.

The first reference there is to a LOA, which is a letter of offer and acceptance, which is the formal way the formal sales contract we conclude with a country in order to transfer equipment on a government-to-government basis.

Notice refers to the requirement under section 36(b) of the Arms Export Control Act to notify Congress, and above threshold says that if it is over $14 million worth of major defense equipment, that notice is required.

Mr. SABA. I take it you were familiar with these rules and procedures in the context of your position and experience at DSAA?

Mr. GAFFNEY. Yes. DSAA has a responsibility for furnishing those notices to Congress, and has a mechanism set up to ensure that they are done.

Mr. SABA. Dr. Gaffney, I would ask you to look at exhibit 4, which I believe is titled "U.S. Department of Defense Offer and Acceptance DD Form 1513." Is this document the document which represents the "LOA" on your notes?

Mr. GAFFNEY. That is correct. That is the standard form we use for all government-to-government transactions.

Mr. SABA. Is this form required by U.S. law to be used in such transactions?

Mr. GAFFNEY. Well, some document along these lines is required for these transactions, and this is the one which contains all the provisions of the law which we are supposed to apply to these sales.

Mr. SABA. Is it fair to refer to this document as a contract, an agreement between the United States and the foreign country buyer?

Mr. GAFFNEY. Yes.

Mr. SABA. Is it fair to state that this contains the terms and conditions pursuant to which the transfer is made?

Mr. GAFFNEY. That is correct.

Mr. SABA. I take it that this document has the force of a binding agreement on the United States and a foreign country?

Mr. GAFFNEY. That is correct.

Mr. SABA. Sir, do you know if Israel's stocks of HAWKs in 1985 was obtained pursuant to the terms of this type of agreement, the LOA?

Mr. GAFFNEY. Yes, across all the years my understanding is that all HAWK batteries and missiles were sold to them under government-to-government agreements.

Mr. SABA. Can you tell me whether or not the LOA has anything to say about the terms and conditions by which Israel might further transfer weapons it receives pursuant to this agreement?

Mr. GAFFNEY. Yes, there is a provision in the LOA, Section 3-B9—Section B-9, I should say—which refers to third-party transfers. Would you like me to read that?

Mr. SABA. Yes, could you please.

Mr. GAFFNEY. This says that,

> The recipient shall not transfer title to or possession of the defense articles, components and associated support material, related training or other defense services, including any plans, specifications, or information furnished under this offer and acceptance, to anyone not an officer, employee or agent of the purchaser, excluding transportation agencies, and shall not use or permit their use for purposes other than those authorized by Section B-8 above, unless the written consent of the U.S. Government has first been obtained.

Mr. SABA. I take it, the reference to Section B-8 above would be inapplicable at the time to Israel?

Mr. GAFFNEY. That is correct.

Mr. SABA. So, I take it, Dr. Gaffney, that if Israel wanted to transfer HAWKs in 1985, it would be required by this agreement to obtain the advance written consent of the U.S. Government?

Mr. GAFFNEY. It would be required, not only to obtain it from the country to whom we sold it in the first place, but also written assurances from the third party to further agreement on no transfers.

Mr. SABA. And is the means and terms by which the United States might give its consent governed by separate U.S. law and regulations?

Mr. GAFFNEY. Yes, that is correct. This language is derived from the Arms Export Control Act.

Mr. SABA. Moving on to the next exhibit which is no. 5, it is titled, "Point paper, HAWK missiles for Iran." Is this the paper which you prepared in response to the request from General Powell?

Mr. GAFFNEY. It is, indeed.

Mr. SABA. Can you recall the time, the date on which you prepared the paper?

Mr. GAFFNEY. Since my outline of it was dated November 21, I believe very strongly that it was prepared on November 21, 1985.

Mr. SABA. Do you recall when you gave it to General Powell?

Mr. **Gaffney**. It would have been on that day.

Mr. **Saba**. Did you hand deliver it to him?

Mr. **Gaffney**. I am not quite sure of that. Either to him or to Mr. Koch for delivery to General Powell.

Mr. **Saba**. Turning to the paper, sir, I would like to very briefly review it. I believe the first paragraph states, availability of missiles; the second references a certain cost per item; and the third states that 120 missiles would cost in excess of an amount over $15 million? The next one refers, I take it, to missiles that are in the pipeline to other countries; is that correct?

Mr. **Gaffney**. That is correct.

Mr. **Saba**. And why would you reference that paragraph in particular?

Mr. **Gaffney**. Well, because they were readily available. They had been originally intended for foreign sale. They would not be from stocks belonging to U.S. Forces.

Mr. **Saba**. In other words, if we had to fill the order for 120 missiles to Israel, we might be able to take these missiles intended for someone else and later fill that order?

Mr. **Gaffney**. That is correct.

Mr. **Saba**. And I take it, the next paragraph beginning, "the modalities for sale to Iran present formidable difficulties," refers to the various requirements for legal transfer?

Mr. **Gaffney**. That is correct.

Mr. **Saba**. And I believe you just testified that the letter of agreement requires the advance written consent of the U.S. Government to be given before Israel, the purchaser, could further transfer those weapons?

Mr. **Gaffney**. Both from Israel, and from the further recipient.

Mr. **Saba**. And, Dr. Gaffney, who gives the consent to Israel on behalf of the U.S. Government?

Mr. **Gaffney**. Well, it is a Presidential consent; I understand it is delegated to the Secretary of State.

Mr. **Saba**. Are there conditions imposed upon the President and his designee before they can give such consent to a foreign country to further transfer our weapons?

Mr. **Gaffney**. Yes. Basically, there are three conditions. One, of course, is that the country for which the transfer is intended should also be eligible for sales.

Second, that, as I said, the written assurances should be obtained from that country.

And third, if the sale is worth over $14 million of major defense equipment, it also requires a notification to Congress, where that notification must sit for 30 days before the Presidential agreement can be given.

Mr. **Saba**. I would like to look at those points a little bit more. In the case of a transfer by Israel to Iran in 1985, was it your opinion at the time you prepared this paper that Iran was eligible for such a direct sale?

Mr. **Gaffney**. It was my opinion at that time, without further going into it, that Iran was not eligible for sales.

Mr. **Saba**. Was your opinion related to the public policy of the United States at the time?

Mr. **Gaffney**. Yes.

Mr. **Saba**. Would that relate to something called, "Operation Staunch"?

Mr. **Gaffney**. Operation Staunch was the manifestation of that.

Mr. **Saba**. What did you understand that to be?

Mr. **Gaffney**. That—well, that we would be selling to neither side in the Iran-Iraq war.

Mr. **Saba**. And you understood that to be also an expression of our stated neutrality in the Iran-Iraq war?

Mr. **Gaffney**. That is correct.

Mr. **Saba**. So am I correct in stating that your first point—Iran is not currently certified for sales, including indirectly as a third country from Section 3 of the Arms Export Control Act—refers to your understanding that the United States itself could not sell directly to Iran?

Mr. **Gaffney**. That is my understanding at that time.

Mr. **Saba**. Moving along to the second condition you mentioned, which has to do with a threshold level by which the President must notify Congress, I take it this is the second point here in your paper?

Mr. **Gaffney**. That is correct.

Mr. **Saba**. So that assuming that the United States could make a direct sale to Iran, I take it that the second point stands for the proposition that if the sale were valued over $14 million, the President must first notify Congress before authorizing the transfer?

Mr. **Gaffney**. That is correct.

Mr. **Saba**. And I take it that your understanding was that 120 missiles would be a sale exceeding that threshold level?

Mr. **Gaffney**. Yes, clearly it would exceed.

Mr. **Saba**. And I take it that that is also what you intended by the next point, and could you elaborate on that a bit?

Mr. **Gaffney**. This, "Thus even if"—point?

Mr. **Saba**. Yes, sir.

Mr. **Gaffney**. Which reads, "Thus even if the missiles were laundered through Israel, Congress would have to be notified." That is correct.

Mr. **Saba**. Could you explain, please, the next paragraph with its two subparagraphs?

Mr. **Gaffney**. Which begins, "It is conceivable that the sale could be broken into three or four packages in order to evade congressional notice."

Mr. **Saba**. Yes, sir.

Mr. **Gaffney**. That was—I should say that nobody suggested that to me, but that is something I felt constrained to put in here, which said that probably you could get under the threshold if you broke it up and said, well, here is one package for less than $14 million, and here is another package for less than $14 million. But I recommended strongly against it since we had never done anything like that.

Mr. **Saba**. And you address that view in the next two subparagraphs?

Mr. **Gaffney**. That is correct.

Mr. **Saba**. And I take it what you mean to say is that such a split has never before occurred?

Mr. **Gaffney**. Not to my knowledge.

Mr. **Saba**. Could you explain for us a bit the next subparagraph and what you had in mind, the one beginning,

> It is conceivable that on satisfactory consultation with Chairmen Lugar and Fascell and minority counterparts, they might agree to splitting the sale into smaller packages?

Mr. **Gaffney**. That was a speculation that if it were necessary, and the law could not be strictly complied with, one could check with the main principals in the Congress who are concerned with these sales, as to the advisibility of such a course.

Mr. **Saba**. And Dr. Gaffney, I take it from your testimony and exchange just earlier, that there is a third condition which is not directly addressed here, a condition of the assent, which has to do with a prior written assurance from the intended transferee country?

Mr. **Gaffney**. Yes.

Mr. **Saba**. And could you again explain what is involved in that condition?

Mr. **Gaffney**. Well, that condition is that we would like to—we would like the same assurances against third party transfer from the further recipient as we obtained from the original buyer.

Mr. **Saba**. Dr. Gaffney, I just want to summarize, for clarity, for HAWK missiles sold by the United States to Israel and in Israel's stocks in 1985, Israel's agreement with the United States was that Israel would not transfer those HAWKs without obtaining the advance written consent of the U.S. Government?

Mr. **Gaffney**. That is correct.

Mr. **Saba**. And the advance written consent of the U.S. Government is by our law given by the President who has delegated that to the Secretary of State?

Mr. **Gaffney**. That is my understanding.

Mr. **Saba**. And neither the President nor his designee, the Secretary of State, can give that consent unless certain conditions are satisfied in advance of that consent and the transfer?

Mr. **Gaffney**. That is correct.

Mr. **Saba**. And that these conditions are, first, the United States could legally sell to the third country?

Mr. **Gaffney**. Yes.

Mr. **Saba**. In this case it must be demonstrated that the United States in the fall of 1985 could make a direct sale to Iran?

Mr. **Gaffney**. Yes.

Mr. **Saba**. And it was your opinion at that time that we could not?

Mr. **Gaffney**. That is correct.

Mr. **Sala**. And, second, even if a direct sale could be made and if that sale exceeded in value $14 million, prior to giving his consent, the Congress must be notified of the sale?

Mr. **Gaffney**. That is correct. That is what the law requires.

Mr. **Saba**. And that, third, if those first two conditions are satisfied, notwithstanding their satisfaction, the United States must obtain from the transferee country—which in this case would be Iran—written assurance that it would accept the conditions of transfer, including obtaining consent of the President of the United States to further transfer?

Mr. GAFFNEY. Yes, sir.

Mr. SABA. Dr. Gaffney, I will tell you that General Secord has testified here that on November 18—sorry, on November 25, 1985, 18 HAWK missiles went from Israel to Iran. Dr. Gaffney, do you know of any change or reversal of American policy on the 25th of November, 1985, or of any change in the United States' position of neutrality at that time?

Mr. GAFFNEY. None, to my knowledge. None that had come to our agency.

Mr. SABA. Mr. Koch?

Mr. KOCH. I am aware of none.

Mr. SABA. Dr. Gaffney and Mr. Koch, do either of you know of any congressional notification sent by the President or any of his authorized designees to the Congress stating that the President would permit Israel to transfer HAWKs to Iran that year?

Mr. GAFFNEY. Not to my knowledge, nothing recorded in our agency.

Mr. KOCH. No.

Mr. SABA. Dr. Gaffney and Mr. Koch, do either of you know of any written consent granted by the President or the Secretary of State or any authorized designee to Israel permitting the transfer of those weapons?

Mr. GAFFNEY. No.

Mr. KOCH. No.

Mr. SABA. And do either of you know, has the Ayatollah Khomeini or any of his authorized designees provided to us in advance of that transfer a writing stating that the Ayatollah will consent to inform the President of the United States in advance upon further transfer or use of those weapons?

Mr. GAFFNEY. I have seen no such document.

Mr. KOCH. I think you would have to ask the Ayatollah.

Mr. SABA. So, Dr. Gaffney, in the absence of those conditions being made, and assuming a transfer, I take it that transfer was first a breach of the LOA?

Mr. GAFFNEY. Yes, I would assume so.

Mr. SABA. And I take it for those who may have participated in it, it constituted a violation of the Arms Export Control Act?

Mr. GAFFNEY. As far as I can see.

Mr. SABA. Dr. Gaffney, I would like to interrupt here again so that we understand the context in which our discussion is taking place. On the 25th of November, 1985, 18 HAWKs were transferred to Iran. No further HAWKs were transferred, and no hostages came out.

For the period of November 25, 1985 to December 4, 1985, we will obtain additional testimony later this week. However, it became clear that by the 4th of December 1985, additional plans were in the making. And I would refer you now to exhibit 6, which is another PROF note, dated December 4, 1985, and it is a PROF note from Colonel North to John Poindexter summarizing the events of the Iran initiative to that date. It is a long summary, and I don't wish to enter it into the record now. It was entered into the record in connection with Mr. McFarlane's testimony.

I would, however, refer to what is the third page in this exhibit, and I would like to point out the first full paragraph. After summarizing the events to that date, Colonel North goes as follows, with all of the above as a lengthy preamble describing 2 nearly frantic weeks with the Israelis and Iranians,

> The following proposal has evolved which the Iranians today, said they would like to discuss in detail on Saturday. The total package from the Israelis would consist of 50 I-HAWKs with PIP, product improvement package, and 3,300 basic TOWs. Deliveries would commence on or about 12 December as follows: the first delivery at hour 1 would be one 707 with 300 TOW missiles, and that equals one American citizen. Ten hours later, another 707, the same aircraft, with 300 more TOWs, and that equals one American citizen. Six hours later, a 747 with 50 HAWKs and 400 TOWs would be transferred. That would equal 2 American citizens. Four hours later, a 707 with 300 TOWs would equal 1 American citizen. Four hours later, a 747 with 2,000 TOWs yields 1 French hostage. The TOWs would add up to 3,300.

Mr. North goes on, Colonel North goes on,

> All involved on our side recognize that this does not meet one of the basic criteria established at the opening of the venture, a single transaction which would be preceded by release of the hostages. However, given the points above regarding the mutual distrust and the dialogue, we all believe it is about the only way we can get the overall process moving.

Turning to the next page, in terms of replenishment of the TOW missiles and weapons for Israel, Colonel North states that;

> The quantity of TOWs requested represents—

and here there has been a necessary reduction.—

> Marone and I are working with the Israeli purchasing office in New York to assure that the replenishment can be accomplished as quickly after December 12, as possible. All recognize that quantities degrade Israeli readiness and that the items will need to be dispatched quickly in order to preclude disaffection and leaks.

That was on the 4th of December.

On the 5th of December, the next day, Colonel North writes a note to Mr. McFarlane which is at exhibit 7, and his memorandum was introduced earlier in connection with Mr. McFarlane's testimony. Here I would only refer to what is the last page of this exhibit and what is the third paragraph on the page.

> The greatest operational security concern is that of replenishing Israeli stocks. Israelis have identified a means of transferring the Iranian provided funds to an Israeli defense force IDF account which will be used for purchasing items not necessarily covered by FMS. They will have to purchase the replenishment items from the United States in FMS transactions from U.S. stocks. Both the number of weapons and size of the cash transfer could draw attention. If a single transaction is more than $14.9 million, we would normally have to notify Congress. The Israelis are prepared to justify the large quantity and urgency based on damage caused to the equipment in storage.

Dr. Gaffney, I understand that there came a time when you received a request about TOWs.

Mr. GAFFNEY. That is correct.

Mr. SABA. Briefly, what is a TOW missile?

Mr. GAFFNEY. A TOW missile is a tube-launched, optically guided—optically guided, wire directed missile. It is a small missile which flies about up to 4,000 meters—it is a ground-to-ground missile meant to kill tanks.

Mr. SABA. Can it be held on your shoulder?

Mr. GAFFNEY. It is not a shoulder-fired weapon. It is a crew-fired weapon from a launcher.

Mr. SABA. And can you tell us the circumstances concerning the request made to you about TOWs?

Mr. GAFFNEY. In this case, I was called in by Mr. Richard Armitage, the Assistant Secretary of Defense for International Security Affairs, and he said—basically I was told we need to find out where we could find 3,300 TOWs, missiles.

Mr. SABA. Did Mr. Armitage indicate the source of the inquiry to him?

Mr. GAFFNEY. No, he did not.

Mr. SABA. What information, if any, did he provide you in connection with that inquiry?

Mr. GAFFNEY. Nothing that I remember except that it was made clear to me that it was a follow-on to the previous exercise on HAWKs.

Mr. SABA. Did you understand therefore that Mr. Armitage had knowledge of the exercise on HAWKs?

Mr. GAFFNEY. Yes, he did.

Mr. SABA. Did he indicate that he had seen or knew of the point paper which you had done on HAWK missiles?

Mr. GAFFNEY. I believe he did at that time, yes.

Mr. SABA. Do you recall exactly the inquiry made of you by Mr. Armitage?

Mr. GAFFNEY. Well, as the best I can recall, it was to compile the same kind of information on TOWs as we had compiled on HAWKs, and also to address the same legal questions that had been addressed previously with regard to the HAWKs.

Mr. SABA. Sir, did you also make a notation of that request?

Mr. GAFFNEY. Yes, I had made some note of it while I was doing the staff work, in my work diary.

Mr. SABA. Can you please look at exhibit 8 and tell us if that is the note?

Mr. GAFFNEY. Yes, that is the extract from my work diary dated 6 December 1985.

Mr. SABA. And can you tell us if that was the date of the request?

Mr. GAFFNEY. As far as I know, yes.

Mr. SABA. And can you please explain a bit to us about this request, in particular the numbers indicated on the notation?

Mr. GAFFNEY. Well, basically we were looking for 3,300 TOWs and a quick check said that the price of the replacements as noted on—at the top there, if we were to buy TOW-II missiles to replace I-TOW or improved TOW missiles, those replacements would cost about $11,000 each to replace, to produce.

And I was just adding that all together and found that it came up to over $30 million.

Mr. SABA. And I take it the number that Mr. Armitage referred to was the 3,300 TOWs?

Mr. GAFFNEY. That is correct.

Mr. SABA. Did Mr. Armitage indicate to you in any way that he had had a conversation with Oliver North about this matter?

Mr. GAFFNEY. No, he did not.

Mr. SABA. Or John Poindexter?

Mr. GAFFNEY. No.

Mr. **Saba**. Did he indicate that he had obtained any earlier memorandum from either of those persons or from anyone concerning 3,300 TOWs?

Mr. **Gaffney**. No, he did not.

Mr. **Saba**. Did he indicate why he asked you the number of 3,300?

Mr. **Gaffney**. No, he did not give me any indication of why that number.

Mr. **Saba**. And what did he ask you to do when you obtained your information?

Mr. **Gaffney**. Well, by this time the deputy director of our agency, who was back in town, was working together with me on the exercise, and what we did was try to put the information together in a point paper similar to the one we had done for HAWK.

Again, our understanding was that it probably would be used for an NSC meeting.

Mr. **Saba**. Was this deputy director Mr. Glenn Rudd?

Mr. **Gaffney**. That is correct.

Mr. **Saba**. And did you, in fact, assist Mr. Rudd in the preparation of such a paper?

Mr. **Gaffney**. Yes. I provided him the information, and I provided him a copy of my earlier HAWK point paper and he, as far as I remember, he built on that to construct a new paper.

Mr. **Saba**. Dr. Gaffney, in receiving the request from Mr. Armitage, was there any indication that the information obtained should provide information as to the concealment of the ultimate destination of those TOWs?

Mr. **Gaffney**. I don't remember at that time.

Mr. **Saba**. Dr. Gaffney, I would ask you to look at exhibit 9, page 1, a document entitled "Prospects for Immediate Shipment of I-HAWK and I-TOW Missiles," and what can you tell us of this one page?

Mr. **Gaffney**. That looks like the information that Mr. Rudd and I prepared. Mr. Rudd did the final version, as I remember, which covered the information that was desired on both the HAWK missiles and the TOWs.

Mr. **Saba**. Dr. Gaffney, can you tell us a bit about how you arrived at the price of $12,200 for the TOW missiles?

Mr. **Gaffney**. That was our understanding of the production cost plus the necessary cost add-ons for foreign military sales for new TOW-II missiles off the production line.

Mr. **Saba**. And was this paper provided by you to Mr. Armitage?

Mr. **Gaffney**. Not by me. I understand Mr. Rudd furnished it to Mr. Armitage.

Mr. **Saba**. And was any other paper prepared for Mr. Armitage at this time?

Mr. **Gaffney**. As I understand it, there was an additional paper, again covering the legal questions of transfer, which was also provided at that time. And that is the paper attached called "Possibility for Leaks."

Mr. **Saba**. Who prepared this paper?

Mr. **Gaffney**. Mr. Rudd, as far as I remember.

Mr. **Saba**. And do you recall if this paper was provided also to Assistant Secretary Armitage?

Mr. GAFFNEY. That was my understanding.

Mr. SABA. And what was the date on which these papers were provided to Assistant Secretary Armitage?

Mr. GAFFNEY. I assume it was all on December 6.

Mr. SABA. In providing the papers to Secretary Armitage, was any instruction given to you concerning retaining copies?

Mr. GAFFNEY. He told me to destroy any copies I had of this particular paper.

Mr. SABA. And did you do so?

Mr. GAFFNEY. I did so.

Mr. SABA. Thank you, Dr. Gaffney.

In order to complete the picture as to what is happening at this time I would like to refer to Mr. McFarlane's testimony on May 11, 1987, at page 137. He refers to a meeting on the 7th of December, the day after you gave your paper, Dr. Gaffney, to Assistant Secretary Armitage.

He said that on that day there was a meeting suggested by the President and it was attended by the President, Secretary Shultz, Secretary Weinberger, Mr. McFarlane, Vice President Bush, Don Regan and Mr. McMahon in lieu of Director Casey.

At the meeting Mr. McFarlane stated concerning the Iran initiative,

> It was a matter of consensus. There was no disagreement really that our attitudes should be one of openness to purely political discourse, but that we should not agree to sell weapons or encourage others, like Israel, to do so.

Following that meeting Mr. McFarlane was instructed to go to London and there to meet with Mr. Ghorbanifar and others concerning this initiative and he did so, and he returned approximately the next day. And on December 9, 1985, Oliver North wrote a memo for Mr. McFarlane and Mr. John Poindexter, which is our next exhibit. This memo was also introduced in connection with Mr. McFarlane's testimony.

The first paragraph summarizes the weekend trip and it states,

> the meetings this weekend with the Israelis and Ghorbanifar were inconclusive. Ghorbanifar refused to return to Geneva with our message that no further deliveries would be undertaken until all the hostages were released. Ghorbanifar and the Israelis both believed that if we were to pass such a message to the Iranian prime minister who provides—or to someone else who provides funds for the items delivered, one or more of the hostages would be executed. Ghorbanifar noted that nine Hizballah leaders had been summoned to Tehran on Friday and that, given the pressures inside Lebanon, all it would take for the hostages to be killed would be for Tehran to "stop saying no."

After considering the events of the past few weeks, the difficulties of the transfers and various arrangements, on the last page of this memo, page 3, having completed the memo Colonel North adopted a new option, the fifth option, and he states,

> "there is a fifth option which has not yet been discussed. We could, with an appropriate covert action finding, commence deliveries ourselves, using Secord as our conduit to control Ghorbanifar and delivery operations. This proposal has considerable merit in that we will reduce our vulnerability in the replenishment of Israeli stocks and can provide items like the Improved HAWK (PIP II), which the Iranian Air Force wants and the Israelis do not have. Finally, Secord can arrange for third country nationals to conduct a survey of ground and air military requirements, which

is what Ghorbanifar has been attempting to obtain from the Israelis for nearly 3 months."

Dr. Gaffney, following the 6th of December, did you receive any more inquiries in connection with the provisions of HAWKs or TOWs to Israel?

Mr. GAFFNEY. I did not.

Mr. SABA. Or to Iran?

Mr. GAFFNEY. Or to Iran, no, I did not.

Mr. SABA. Dr. Gaffney, at the time, were you aware of the transfer of HAWKs that had taken place on November 25?

Mr. GAFFNEY. No, I wasn't aware at all.

Mr. SABA. Were you aware of the information contained in the various PROF notes and in the memos written by Colonel North, which I have read?

Mr. GAFFNEY. No, I was not aware.

Mr. SABA. Dr. Gaffney, I have no further question.

Mr. Koch, I have no further questions.

Chairman INOUYE. Before calling upon Mr. Saxon, I would like to announce that House Members are absent who have responded to a roll call.

Mr. Saxon?

Mr. SAXON. Dr. Gaffney, for the record, you have with you today Mr. Jerome Silber, the General Counsel of DSAA; is that correct?

Mr. GAFFNEY. That is correct.

Mr. SAXON. Let me we say that Mr. Saba and I found Mr. Silber most helpful as we tried to understand the laws governing these arms transfers.

Mr. Koch, you have with you your counsel, Mr. Bob Adler; is that correct?

Mr. KOCH. That is correct.

Mr. SAXON. Mr. Koch, you testified that you were the top Pentagon official for matters pertaining to terrorism and counterterrorism; is that correct?

Mr. KOCH. That is correct.

Mr. SAXON. In that capacity, did you have occasion to deal with Lt. Col. Oliver North?

Mr. KOCH. I did.

Mr. SAXON. Did you deal with him frequently?

Mr. KOCH. I did.

Mr. SAXON. Would you say you had a good professional relationship with Colonel North?

Mr. KOCH. I would.

Mr. SAXON. You served with him on an interagency group on terrorism?

Mr. KOCH. That is correct.

Mr. SAXON. Did there come a time in the fall of 1985 when Colonel North discussed with you the President and the hostages?

Mr. KOCH. There did.

Mr. SAXON. What do you recall about that conversation?

Mr. KOCH. I recall that it followed a meeting we had relating to the hostages, but not to this arrangement that we are discussing today and that he was very tired and we just had an exchange after a meeting and he said, apropos of the hostages, this thing is really eating him and he is driving me nuts about it. And he wants them out by Christmas.

I said, "Can we do it?" He said, "I hope so."

Mr. SAXON. So this is Colonel North saying that the President indicated that the hostage issue was driving him nuts and Colonel North said the President was driving him nuts and that the President wanted the hostages back by Christmas?

Mr. KOCH. That is correct.

Mr. SAXON. Do you recall whether in that same conversation Colonel North discussed arms as the currency for getting them back?

Mr. KOCH. No, he did not.

Mr. SAXON. So that came later?

Mr. KOCH. This preceded the circumstances that bring us here today.

Mr. SAXON. Mr. Koch, did you have occasion to receive another call from Colonel North about a negotiating assignment?

Mr. KOCH. Yes, I did.

Mr. SAXON. When would that call have been received approximately?

Mr. KOCH. My recollection is not that clear. It seems to me it would have been December, no later than very early January.

Mr. SAXON. December of 1985 or early January of 1986?

Mr. KOCH. That is correct.

Mr. SAXON. What can you tell us about that phone conversation?

Mr. KOCH. The conversation had to do with revising a price that had been negotiated with the Israelis for the purchase of TOWs.

These TOWs were for the purpose of retransmission to Iran, which I understood by that point because we are leapfrogging ahead here. He indicated that the price that had been negotiated was insufficient to enable any of the parties involved to consummate the deal.

Mr. SAXON. So this was in connection with TOWs as a replenishment of Israeli stocks for Iran?

Mr. KOCH. That is correct.

Mr. SAXON. Did he indicate to you who had negotiated the price for a TOW missile with the Israelis?

Mr. KOCH. He did.

Mr. SAXON. Who was that, sir?

Mr. KOCH. That was Michael Ledeen.

Mr. SAXON. What did he tell you Mr. Ledeen did in the process of negotiating that price, and this would be Colonel North's statement and not necessarily your representation?

Mr. KOCH. The price negotiated was $2,500 and he had additional comments to make about Mr. Ledeen which were to the effect that he had screwed it up. I believe that was the verbatim reference. And then went on to say that he thought that Michael had been involved in taking money that was involved in the transactions.

Mr. SAXON. With regard to any possible taking of money or skimming, do you have any personal substantiation of that allegation that Colonel North made about Mr. Ledeen?

Mr. KOCH. I have none whatsoever.

Mr. SAXON. Are you aware that Mr. Ledeen denies these allegations?

Mr. KOCH. I am not aware of that.

Mr. SAXON. Did Colonel North say that Mr. Ledeen was not knowledgeable regarding TOW missiles?

Mr. KOCH. I think it was to the effect he didn't know what he was doing. There was a general reference to the operation that had preceded his involvement in it which was to the effect that this had gotten started under Bud McFarlene and he was using people who didn't understand the business and that it had gotten shuffled off on to him, he Ollie North, when Bud left.

Mr. SAXON. You said the price Mr. Ledeen negotiated with the Israelis for basic TOW missiles out of U.S. stocks was $2,500?

Mr. KOCH. That was my understanding.

Mr. SAXON. Are you able to characterize that price in relation to the world of TOW missile pricing?

Mr. KOCH. As you have heard now, it is rather low.

Mr. SAXON. I believe you said in your deposition that it was "laughably low;" would that be correct?

Mr. KOCH. That is correct.

Mr. SAXON. Did he tell you who had authorized Mr. Ledeen to negotiate the price?

Mr. KOCH. No, he did not. The implication was it was Mr. McFarlane.

Mr. SAXON. Did Colonel North tell you who told him the price was $2,500?

Mr. KOCH. He did not.

Mr. SAXON. Mr. Koch, what assignment did Colonel North then ask you to undertake regarding TOW pricing?

Mr. KOCH. Well, because the price was so low—let me preface my response by saying that those of us who were involved in this thing at this point in the Pentagon were very much not in favor of this whole adventure. Nevertheless, it was clear to us that this was something that the White House wanted done, somebody at the White House wanted it done, and so the object was to get that price up to where it would go over a threshold at which the Defense Department could swallow it, in effect.

Now, I had to go back to the Israelis and renegotiate that price and get it up somewhere at a higher step so that the defense mechanism, the defense management system could defend that price.

Mr. SAXON. And at that time, did you know what the price of the TOW missile was?

Mr. KOCH. I did not, no. It depends—there are many kinds of TOWs.

Mr. SAXON. What efforts did you undertake to learn the price of a TOW?

Mr. KOCH. I went to Glenn Rudd, the Deputy Director of the Defense Security Systems Agency, and asked him generally what would the price of a basic TOW be.

Mr. SAXON. I believe we established from your personal calendars, which are found as exhibit 11, that that would have been on January 7th; is that correct, sir?

Mr. KOCH. That is approximately correct.

Mr. SAXON. Mr. Rudd has provided this committee sworn testimony that you asked him if it would be possible to ship 4,000

TOWs to the Israelis for Iran for $12 million, and that would work out to $3,000 per TOW, is that correct?

Mr. KOCH. That is the way the arithmetic works.

Mr. SAXON. Have we ever sold a TOW missile for $3,000?

Mr. KOCH. To my knowledge, no. Glenn Rudd indicated that we never had. The cheapest had been something like over $6,000.

Mr. SAXON. So, in fact, his first estimate was that it would be, I believe you told us, about twice as much, and then, if I understand correctly, he then went back to verify the data precisely and that is when he gave you the figure of $6,800?

Mr. KOCH. That is correct.

Mr. SAXON. So that the cheapest we had ever sold a basic TOW was for $6,800. I believe Mr. Rudd told us that was to the Israelis, and, in fact, that was some years ago?

Mr. KOCH. That is correct.

Mr. SAXON. Now for 4,000 TOWs at $6,800, that would really work out to be along the lines of $25 to $30 million and not $12 million, is that correct?

Mr. KOCH. Yes.

Mr. SAXON. So, even with discounting the older basic TOWs because of their remaining shelf life, we would still not be able to get the price down to the 12 million figure; is that correct?

Mr. KOCH. If you used those prices, that is correct.

Mr. SAXON. Mr. Rudd testified that, in fact, he thought with discounting due to shelf life, there would be no way that we could get the figure down to 12 and for that matter we would not be able to get the figure down for 4,000 TOWs to below $14 million; is that correct?

Mr. KOCH. That is correct.

Mr. SAXON. What is the significance of the $14 million figure?

Mr. KOCH. As it stands alone, the $14 million, the significance of the $14 million is that that is the threshold which is provided in the Arms Export Control Act above which you must notify the Congress—if you are going to sell X number of widgets and it costs you more than $14 million, you have to tell the Congress you are going to do it.

Mr. SAXON. Let's go from the generic widgets to TOWs. If we were to sell 4,000 TOWs to Iran at a price of no less than $6,800, it would be above $14 million, for which reason we must notify the Congress, is that correct?

Mr. KOCH. That is correct.

Mr. SAXON. If we notified the Congress that the Israelis were buying 4,000 basic TOWs, was there any reason to believe that eyebrows would have been raised?

Mr. KOCH. Yes, there was.

Mr. SAXON. What was the reason?

Mr. KOCH. Israel would not be buying basic TOWs. Israel wasn't using basic TOWs and, I think, they may be producing them themselves, I am not sure. If they were purchasing them from us, it would be higher—TOW II or something.

Mr. SAXON. So, as Mr. Rudd told us in his sworn statement, it would be transparent on its face because the knowledgeable Members of Congress would know that the Israelis would not be purchasing basic TOWs, and if they did, it might be intended for transfer elsewhere; is that a reasonable conclusion?

Mr. KOCH. That is correct.

Mr. SAXON. Did Mr. Rudd then offer a possibility to you for the best way for this transfer to go forward, and yet remain secret?

Mr. KOCH. We evolved toward a conclusion that the only way to get this thing done was to "go black."

Mr. SAXON. What do you mean by "go black?"

Mr. KOCH. We would make the transfer through—we would provide the missiles to the agency through a system that we have available to us, and that they would be provided to the agency at the minimum price; it is a paper shuffle in effect and that the missiles then would be provided through the expedient of the CIA to the end user.

Mr. SAXON. So, if I understand your testimony and understand the process, if we "go black," that is a shorthand way of saying that the Defense Department, in this case particularly, the Department of the Army, would transfer the TOW missiles to the CIA, it would be an Economy Act transaction, it would become an intelligence activity, would be covert and would necessitate a Presidential Finding, is that correct?

Mr. KOCH. That is correct.

Mr. SAXON. I would like for you to look at exhibit 12 in the exhibit book, which you have verified in your sworn deposition testimony as being a handwritten note made by you on note paper at the Pentagon, and I believe you put the date for this note at February or March of 1986; is that correct?

Mr. KOCH. Yes, sir, but it is very rough because if you see the original version, which I don't have, it is written at different times and one is pencil, one is ink.

Mr. SAXON. Let me say for the record this document has been declassified by the White House. The version in the exhibit book does not bear that notation. If you would briefly, walk us through this, frankly your handwriting is not much better than mine, tell us what each sentence says.

Mr. KOCH. The first says that TOWs were discussed separately with Mr. Rudd and Dr. Gaffney in December.

Mr. SAXON. All right, sir. What is the next item, and I should say that the House and Senate counsels have agreed that the items blacked out have no bearing on these proceedings.

Mr. KOCH. That is correct. The fourth says that there is a TOW paper locked in RLA's safe, which would be Richard Armitage, and it says that he wouldn't let Rudd keep a copy.

Mr. SAXON. That is the TOW paper about which Mr. Saba questioned Dr. Gaffney?

Mr. KOCH. That is correct.

Mr. SAXON. What's the next item sir?

Mr. KOCH. The next says the original was 3,000, and there is definitely this much in stock. My assumption is that that reference is to TOWs.

Mr. SAXON. The next sentence, please.

Mr. KOCH. It says there is no way to keep the transfer secret. The next one, Gast, this is General Gast, the Director of the Defense Security Assistance Agency, says the best possibility of cover was to do it black.

Mr. SAXON. The next line?

Mr. KOCH. Through the Israelis, would attract notice; even if we tried to waive section 36(b), which is the notification to the Hill. Do you want me to continue?

Mr. SAXON. Please.

Mr. KOCH. CIA purchased through ACSI for transfer.

Mr. SAXON. And the notations below that?

Mr. KOCH. At that point, Mr. Saxon, my handwriting defeats me.

Mr. SAXON. I believe you testified in your deposition that it says replace with TOW-II as condition of sale, and the last notation, four C-130s equals 500. I take it Mr. Koch, what this document tells us, if I can conclude and summarize what was going on here. The best way for such a transaction to take place was to keep it secret; that if we went through the Israelis it would attract notice; that the best cover was to do it black through the Agency; that the Agency would purchase; and that the condition of sale would be to replace Israeli TOWs with 500 TOW-IIs; is that a reasonable interpretation of your note?

Mr. KOCH. Yes, sir.

Mr. SAXON. This was a replenishment was it not and not a direct transfer to Iran?

Mr. KOCH. I think it was a backfill, yes. Part of it would have been, anyway.

Mr. SAXON. And your discussions with Mr. Rudd, which we have discussed, were prior to your negotiating session with the Israeli representative?

Mr. KOCH. That is correct.

Mr. SAXON. At this stage of the discussions, is it fair to say that transfer to Israel was being contemplated as some form of cover?

Mr. KOCH. Yes—well, I am not sure how to respond to that. It seems to me it was.

Mr. SAXON. Let's go to the negotiating session, Mr. Koch. Returning to your conversation with Colonel North, with whom did he say you were to negotiate?

Mr. KOCH. There is a man in the procurement office in New York whose name was Ben Yosef.

Mr. SAXON. This is the Israeli purchasing office?

Mr. KOCH. That is correct.

Mr. SAXON. This was to negotiate upward the price of the TOW missiles previously negotiated by Mr. Ledeen?

Mr. KOCH. Yes, sir.

Mr. SAXON. Did you call Mr. Ben Yosef?

Mr. KOCH. I called him or he called me. I don't recall.

Mr. SAXON. And you agreed to meet?

Mr. KOCH. We agreed to meet.

Mr. SAXON. Where did you agree to meet?

Mr. KOCH. We agreed to meet here in Washington, and we went to the First Class Lounge in the TWA section of National Airport.

Mr. SAXON. To the best of your recollection, when did that meeting take place?

Mr. KOCH. I place that roughly 12 January, if that is a Sunday.

Mr. SAXON. Yes, sir.

I take it that you both knew why you were there?

Mr. KOCH. We did.

Mr. SAXON. Tell us who said what.

Mr. KOCH. There is a little back room back there and we found it and had a cup of coffee and got on with business and I said we have got to get the price up, and it was a rather desultory exchange, actually. I had a number fixed in my mind and, as a negotiator, I have no doubt that he had, as well, a ceiling and so we rapidly—I wanted to get something over and above what the taxpayer had paid for those birds, which was something on the order of $3,500 with the special device added onto the basic missile.

Mr. SAXON. For the record, that would be $3,169 for the basic TOW and the safety modification of $300, or $3,469?

Mr. KOCH. That is correct.

Mr. SAXON. Did you have a negotiating floor below which you would not go?

Mr. KOCH. My floor was $4,000.

Mr. SAXON. What was your ceiling, your goal?

Mr. KOCH. Well, I would sell it for anything I could. But it seemed to me that he wasn't going to go above— reasonably one would expect him not to go above $6,000 because had he been willing to do that, I would have intuited from that that as far as the Israelis were concerned, the sky was the limit, which would have told me they were selling them for much more and making a profit on them.

Mr. SAXON. Normally, Mr. Koch, when one fixes a price in a negotiation and they're the buyer, they don't willingly agree to renegotiate the price up. Is it fair to say from what transpired that the Israelis wanted this transaction to go through also?

Mr. KOCH. I would gather that, yes.

Mr. SAXON. What price was agreed upon?

Mr. KOCH. $4,500.

Mr. SAXON. Was anything reduced to writing with regard to that price or those negotiations?

Mr. KOCH. No, sir.

Mr. SAXON. For this negotiation, Mr. Koch, were you given a code name by Colonel North?

Mr. KOCH. Well, I was given a code name generally. I guess it was anticipated that my role in this would be more extensive than it was, and so I had a code name, yes.

Mr. SAXON. What was that, sir?

Mr. KOCH. It was Aaron.

Mr. SAXON. What was Colonel North's code name?

Mr. KOCH. Damned if I know. I had to write my own down.

Mr. SAXON. I would ask that you look at exhibit 13 and perhaps that will refresh your recollection.

Mr. KOCH. Paul.

Mr. SAXON. Did he give Mr. Ben Yosef a code name?

Mr. KOCH. Yes. He was the Bookkeeper.

Mr. SAXON. What was the code name for missiles?

Mr. KOCH. Dog.

Mr. SAXON. And what was the airport?

Mr. KOCH. The Swimming Pool.

Mr. SAXON. And what was Iran?

Mr. Koch. Apple.

I want you to know we didn't use any of this nonsense.

Mr. Saxon. To complete the list for the record, what was the code name for Israel?

Mr. Koch. For your record it was Banana.

Mr. Saxon. And the United States?

Mr. Koch. Orange.

Mr. Saxon. And hostages?

Mr. Koch. Zebras.

Mr. Saxon. So I take it from your testimony there never came a time when Colonel North said that Paul was sending Aaron and the Bookkeeper to the Swimming Pool to get a price so that Orange could send some Dogs through Banana to Apple for some Zebras; is that correct?

Mr. Koch. In all truth Mr. Saxon you would sort of start down that road and get so self-conscious, you couldn't do it.

Mr. Saxon. To whom did you communicate the price of $4,500?

Mr. Koch. I passed that back to General Powell and to Colonel North, as well.

Mr. Saxon. When you told General Powell, did he suggest that this information also be transmitted to Secretary Weinberger?

Mr. Koch. I believe that was—that my discussion with him was at the same time when I brought it back. He said I think we ought to go tell the old man, and we did.

Mr. Saxon. Does that meeting stand out in your mind for any reason?

Mr. Koch. Well, we went into the office. My sense of it was that a meeting was concluding and the Secretary had a few minutes and he, General Powell, said Noel has something that he wants to give you, and I told him that we had consummated this arrangement.

He was generally agitated over this and, as I've indicated previously, this was something that all the players involved in this thing thought was a very foolish undertaking. And so we sort of ran back through all the things that may it foolish, none of which it was a question of legality, but rather the politics of this, the problems that would be created when our allies found out we had done it, the impact on our terrorist posture, the effect it would have on the probability of taking of future hostages and so forth.

I said to him—and I did not say it in a very serious way— it may not sound in context as an opportunity for levity, but I said, do we have a legal problem with this, is somebody going to go to jail, and his response was in the affirmative. But I didn't take that seriously.

Mr. Saxon. Is there a reason why you did not take that comment seriously?

Mr. Koch. I hadn't intended it seriously when I asked the question. We had the shared background of Watergate to bounce some of these perceptions off of, so there was that. Chiefly I assumed if there was any prospect of it being illegal, that he would have stopped it.

He became Secretary and put his hand on the Bible and swore to uphold the laws of the land and I assumed that was an ironclad guarantee, and since he didn't leave, I assumed it was legal.

Mr. SAXON. You assumed that since Secretary Weinberger was not willing to resign over this initiative, then he must not have felt so strongly about the legality of it?

Mr. KOCH. I think he thought that the question of legality was tenable.

Mr. SAXON. Did he say on that occasion that this policy initiative was a disaster?

Mr. KOCH. He used words to that effect, yes.

Mr. SAXON. Did he say that it should be stopped?

Mr. KOCH. Yes, he did.

Mr. SAXON. Did he say that it was terrible for the country?

Mr. KOCH. Yes, he did.

Mr. SAXON. Mr. Koch, Mr. Saba asked you earlier, from the outset when you first heard of this initiative and thought that we were giving arms directly to Iran and not selling them through Israel, that you stated objections to the policy. And what I would like to do is take a moment to have you elaborate on that just a bit for the record. As the top terrorism policymaker at the Pentagon during this period, what would you say your objections were to the arms to Iran initiative?

Mr. KOCH. The question of not making concessions to terrorists was about the last shred of a fig leaf that we had that constituted any kind of a pretense at having a policy toward dealing with terrorism at all. And so to have shed that one, it seemed to me, left us in a very difficult position, in addition to which there would be second order consequences to our having done this.

So I was concerned that we looked very bad with our allies and again, never mind the question of Operation Staunch or anything else, I am looking purely through the prism of someone having to deal with their counterterrorism officials.

And so we had tried with varying degrees of success to get the cooperation of our friends in Europe and elsewhere. It had taken us a long time to do that. I had been involved in most of it and in front of most of it and it had taken a lot of time and now it seemed to me that all this was unwinding.

My response to Mr. Saba was predicated on the assumption at the time that this was a straightout ransom, not that there was a question of sales involved, but rather that we were going to give them X number of HAWK missiles in exchange for hostages, which I thought was ridiculous. I don't think we should ransom hostages.

As it evolved, either as an effort to rationalize the effort or the question of pursuing a sensible policy toward the Gulf that was emerging, that we were evolving a policy toward the Gulf in which we were going to try to restore our relationships with Iran.

If that was the object, then it seemed to me that was supportable, and if that was the object, then clearly logic took you to a point at which you had to have those hostages back because the American people wouldn't stand for restoration of relations with Iran in circumstances in which they thought they were holding our hostages—which, incidentally, they are not. That is a misperception.

Mr. SAXON. So if I understand your testimony here this afternoon, Mr. Koch, and in your previous sworn statements and depositions to the committee, is it fair to say that you believed that the arms initiative was contrary to our stated policy of not shipping arms to Iran?

Mr. KOCH. That is correct.

Mr. SAXON. It was contrary to our policy of pressuring our allies not to ship arms to Iran?

Mr. KOCH. That is correct.

Mr. SAXON. It was contrary to our policy of not dealing with or making concessions to terrorists?

Mr. KOCH. That is correct.

Mr. SAXON. And in your opinion, did you believe that the shipping of arms to Iran would lead to the increased shipment of arms to Iran by our allies?

Mr. KOCH. Yes, but that wasn't a consideration of mine alone.

Mr. SAXON. And did you believe it would, perhaps, lead to the taking of additional hostages?

Mr. KOCH. I thought that was a definite possibility.

Mr. SAXON. Did you ever hear Secretary Weinberger verbalize these objections?

Mr. KOCH. In summary form, sure, they were not elaborated, but those were his concerns.

Mr. SAXON. And it would be your understanding then that he shared these concerns?

Mr. KOCH. That would be my understanding.

Mr. SAXON. A final matter, Mr. Koch, were you a trustee of the Richard Secord Legal Defense Fund?

Mr. KOCH. I was.

Mr. SAXON. Who was your co-trustee?

Mr. KOCH. My co-trustee is a man named Middleton Martin, attorney.

Mr. SAXON. When did you resign as a trustee?

Mr. KOCH. Friday.

Mr. SAXON. That would be June——

Mr. KOCH. I don't know the date. Last Friday.

Mr. SAXON. Let me ask you to look at exhibit 15, and tell us if, in fact, that is the letter of resignation which you submitted to General Secord resigning as a trustee of this fund?

Mr. KOCH. That is correct.

Mr. SAXON. Can you tell us, Mr. Koch, why you resigned as a trustee?

Mr. KOCH. Well, let me say first, I started the legal assistance fund for General Secord, and he is a friend of mine; I want to help him.

We were raising money in modest sums, and we reached a point where one morning there was a very considerable sum of money in that legal assistance fund, and over a period of about 2 weeks that sum grew.

Mr. SAXON. Would that sum have been characterized by three separate deposits?

Mr. KOCH. There were three separate deposits.

Mr. SAXON. And did you ascertain the origin of those three deposits?

Mr. KOCH. I was not able to do that.

Mr. SAXON. Did you then go to anyone else to help you in that process?

Mr. **Koch**. When the first sum came in, I went to Sandy Martin and said, "Where did this come from?" He shared my bafflement at our extraordinary success.

Mr. **Saxon**. Mr. Koch, what did you ultimately determine to have been the origin of these three transfers?

Mr. **Koch**. I never made that determination.

Mr. **Saxon**. Did Mr. Martin tell you that they were wire transfers from——

Mr. **Koch**. I am sorry, OK, they were wire transfers from Credit Suisse.

Mr. **Saxon**. Did he tell you on what account they were drawn?

Mr. **Koch**. No, I don't think he knows.

Mr. **Saxon**. Were they drawn on the account of CSF?

Mr. **Koch**. I don't know what CSF is. Is that not Credit Suisse?

Mr. **Saxon**. Credit Suisse is the financial institution, CSF is a particular business entity.

Mr. **Koch**. If he did, that went past me. I am not aware of that.

Mr. **Saxon**. Can you tell us, Mr. Koch, what the total amount of the three contributions was which went into the Secord Legal Defense Fund?

Mr. **Koch**. It was a half million dollars.

Mr. **Saxon**. Thank you, Mr. Koch——

Mr. Adler?

I have no further nothing further, Mr. Chairman.

Chairman **Inouye**. Mr. Genzman?

Mr. **Genzman**. Thank you, Mr. Chairman.

Dr. Gaffney, would you turn to exhibit 9, which is the document entitled, "Possibility for Leaks."

Mr. **Gaffney**. Yes, sir. I have it.

Mr. **Genzman**. Sir, in that document there is a discussion of three legal methods regarding the arms transfers; isn't that true?

Mr. **Gaffney**. Yes, sir.

Mr. **Genzman**. This document does not discuss another method which is the covert method under the Economy Act; isn't that correct?

Mr. **Gaffney**. That is correct.

Mr. **Genzman**. And this covert method under the Economy Act is yet another legal method; is it not?

Mr. **Gaffney**. Well, I am not familiar with those laws at all. These are the laws that we operate under in our agency. I assume so from what I know.

Mr. **Genzman**. Mr. Koch, could you answer that question?

Mr. **Koch**. No, sir, I cannot.

Mr. **Genzman**. Thank you.

Dr. Gaffney, you have testified about several conditions which must be met for an arms transfer to take place under the Arms Export Control Act; isn't that true?

Mr. **Gaffney**. Yes, I did.

Mr. **Genzman**. And you have testified that to your knowledge those conditions were not met?

Mr. **Gaffney**. That is correct.

Mr. **Genzman**. Now, those conditions do not apply to covert transactions which are dealt with under separate provisions; isn't that true?

Mr. GAFFNEY. I have no idea.

Mr. GENZMAN. Ultimately these arms transfers did take place as covert transactions; isn't that correct?

Mr. GAFFNEY. Only from what I hear in the newspapers and watching these hearings.

Mr. GENZMAN. Mr. Koch, can you answer that question?

Mr. KOCH. I would respond the same way.

Mr. GENZMAN. Dr. Gaffney, I believe you testified that copies of exhibit 9 entitled, "Prospects for immediate shipment of I-HAWKs and I-TOW missiles" were destroyed at the direction of Mr. Armitage?

Mr. GAFFNEY. Yes, I destroyed my copy or my copy of the drafts.

Mr. GENZMAN. Did he direct you to make—to destroy your copies not long after they were made?

Mr. GAFFNEY. Well, on that day, yes.

Mr. GENZMAN. Were you ever told to destroy every version of that memo?

Mr. GAFFNEY. Well, he just told me to destroy what we had been working on that day.

Mr. GENZMAN. In fact, one copy was kept in Mr. Armitage's safe, according to the information we have; isn't that true?

Mr. GAFFNEY. That is my understanding.

Mr. GENZMAN. Now, is it unusual to destroy drafts or extra copies of sensitive documents such as this?

Mr. GAFFNEY. Well, these are unusual circumstances and this is a piece of paper of the moment, so it—and given the sensitivity of the situation I wasn't altogether surprised.

Mr. GENZMAN. Incidentally, did anyone every direct you to destroy any copies of the HAWK point paper, which is exhibit 5?

Mr. GAFFNEY. No, they did not.

Mr. GENZMAN. Mr. Koch, were you ever asked to destroy any of these HAWK or TOW papers, exhibit 5 or exhibit 9?

Mr. KOCH. I was not.

Mr. GENZMAN. Thank you, gentlemen.

I have no further questions, Mr. Chairman.

Chairman INOUYE. We will take a short recess.

[Recess.]

Chairman INOUYE. The chair recognizes Senators Nunn and Rudman for 30 minutes.

Mr. NUNN. Thank you, Mr. Chairman.

Mr. Koch, you mentioned about the transfer of certain funds into this trustee account. You are cotrustee of that account, the defense account; is that right?

Mr. KOCH. I was, sir.

Mr. NUNN. For Mr. Secord?

Mr. KOCH. That is correct.

Mr. NUNN. And when was that account set up, approximately?

Mr. KOCH. In March, I believe—no, that can't be right. Please bear with me.

Mr. NUNN. March of 1986?

Mr. KOCH. I would say May, but let—please let me just look for the enabling document here.

Mr. NUNN. 1987?

Mr. KOCH. I have got February 1987.

Mr. NUNN. February 1987?

Mr. KOCH. Yes, sir.

Mr. NUNN. How was the account set up, what is the name of the account?

Mr. KOCH. The Richard Secord Legal Assistance Fund.

Mr. NUNN. Who is responsible for that account? What is the legal entity in terms of responsibility?

Mr. KOCH. It is a trust agreement; it is administered as—I am a trustee—I was a trustee. Mr. Martin is a trustee, and General Secord was, is referred to as the settlor.

Mr. NUNN. The settlor?

Mr. KOCH. Yes.

Mr. NUNN. Does that mean Mr. Secord started the account himself, does that mean he put money in the account?

Mr. KOCH. No, sir, that has nothing to do with starting the account. He knew nothing about it until I had conceived it.

Mr. NUNN. The settlor of a trust is normally the person that sets the account up and puts the original funding in it. Sounds as if Mr. Secord was the beneficiary rather than the settlor.

Mr. KOCH. You have me at a disadvantage, Senator, because I don't understand the legal aspects of this, but he did not set this up.

Once the agreement was drawn, the question was what should the agreement look like? And this was the form that it took, and he was made the settlor. This was not his idea to do this.

Mr. NUNN. In effect, forgetting the legal terminology, he was the beneficiary of this in terms of the account's purpose, which was to help provide for his legal defense, is that correct?

Mr. KOCH. That is correct, yes, sir.

Mr. NUNN. Who else was responsible for the account? Did you have a cotrustee?

Mr. KOCH. Yes, sir; that was Mr. Martin.

Mr. NUNN. And what is his first name?

Mr. KOCH. Middleton. Sounds like a law firm, it's Middleton Ansley Martin.

Mr. NUNN. Middleton Ansley Martin.

Mr. KOCH. They call him "Sandy."

Mr. NUNN. And he is an attorney here in Washington?

Mr. KOCH. Yes, sir.

Mr. NUNN. Did he do the legal work for the account?

Mr. KOCH. He did it in conjunction with my attorney, Mr. Adler.

Mr. NUNN. Who has the authority to sign checks on that account? Who had the authority before you resigned?

Mr. KOCH. The checks were cosigned, Mr. Martin and I cosigned.

Mr. NUNN. Did General Secord have the right to sign checks?

Mr. KOCH. I do not believe he did have, no.

Mr. NUNN. And since you have now resigned, who is now responsible for that account?

Mr. KOCH. Well, I think that still remains to be sorted out. I don't know what the follow-on would be to that.

Mr. NUNN. Has Mr. Martin resigned?

Mr. KOCH. Not to my knowledge as of now.

Mr. NUNN. Did you discuss this with him?

Mr. KOCH. Well, let me give you the background. When we had all this money, I tried to—I finally talked to him about it, he was concerned about it, and then there is an additional iteration that caused me additional concern, and that is that we were presented with a bill for $94,000, 93 and change, and I signed that and——

Mr. NUNN. What was that bill for?

Mr. KOCH. That was for legal services.

Mr. NUNN. Legal services.

Mr. KOCH. Yes, sir, and it seemed to me in accordance with the objects of the trust, and I was presented with that by Mr. Martin and I signed it. But the origin of the money continued to bother me. I finally talked to my attorney. He said we need to get a very strong prestigious law firm involved in this thing simply to oversee the trust itself.

And I tried for a week, somewhat more than a week, and so did a number of others, including my attorney, to find a firm, and there is no firm in this town that is not conflicted by this Iran-Contra situation. So we—if you find one that can take the case, you assume immediately they can't be much good.

So, finally, the last one I came to was—we kept going around in circles. I came back to an old White House friend, and he said, "Get out", and I did. They wouldn't take it. He advised me to resign from it, from the trust.

Mr. NUNN. So you were advised to resign by a lawyer friend of yours?

Mr. KOCH. That is correct.

Mr. NUNN. When was the first time you noticed large sums of money coming into this account that were non-explainable?

Mr. KOCH. I would say about 6 weeks ago, probably 7 weeks ago.

Mr. NUNN. Were there three deposits, four deposits?

Mr. KOCH. Three in increments of two, two and one.

Mr. NUNN. Two, two and one; that being $200,000?

Mr. KOCH. Yes.

Mr. NUNN. $200,000?

Mr. KOCH. Yes, sir.

Mr. NUNN. And $100,000?

Mr. KOCH. Yes, sir.

Mr. NUNN. That was over the last 6 weeks.

Mr. KOCH. I would place it somewhere in that timeframe.

Mr. NUNN. How were you notified that the money had come to the account. What was the notification?

Mr. KOCH. Mr. Martin told me.

Mr. NUNN. Was Mr. Martin getting the deposit slips?

Mr. KOCH. I guess he was. His law firm was over the top of that particular branch of Riggs Bank where we have the fund.

Mr. NUNN. So was Mr. Martin a trustee, as a lawyer, was he representing the account, or was he a trustee independent of his legal practice?

Mr. KOCH. He was a trustee independent of his legal practice, I think.

Mr. NUNN. So he wasn't charging for this service then?

Mr. KOCH. No, sir.

Mr. NUNN. And you were not charging for the service?

Mr. KOCH. No, sir.

Mr. NUNN. You were doing it as a friend of General Secord?

Mr. KOCH. Yes, sir.

Mr. NUNN. When you decided to resign, did you call General Secord?

Mr. KOCH. Yes, sir.

Mr. NUNN. Did you talk to him before that or just after you had decided?

Mr. KOCH. I talked to him immediately. I decided and called him and told him and told him I want to see him, and I saw him.

Mr. NUNN. Tell us about the conversations you had with General Secord since you first found out about the two-two-one, the $200,000, $200,000, $100,000 deposits. What kind of conversations have you had with him, and what was the result of those conversations?

Mr. KOCH. Well, I told him first that I wanted to clarify the sources of the money. Initially I told him that we wanted to bring a law firm into this. He was not totally supportive of that process, and I indicated——

Mr. NUNN. Does that mean he was against it?

Mr. KOCH. I would say he was against it, yes, sir. He was against it, yes.

And so I finally made clear what my concern was, and it was—I asked him if he knew where the money came from, and he said he did not.

Mr. NUNN. He never said he knew where the money came from?

Mr. KOCH. He said he did not know where the money came from.

Mr. NUNN. Was this a conversation on the telephone, or was this in person?

Mr. KOCH. It was both.

Mr. NUNN. How many times have you met with him or talked to him since this came to your attention, the large deposits?

Mr. KOCH. Oh, I don't know, maybe three, four times. We didn't discuss this every time, I should tell you. I mean, I tried, he has a lot on his mind, and I tried not to vex him with questions of the legal assistance fund, but when it became vexing to me, then I thought it was fair game to share a little of it.

Mr. NUNN. In all those conversations, he said he did not know where the money came from?

Mr. KOCH. You shouldn't construe that there were a lot of conversations. There were no more than three, and possibly only two.

Mr. NUNN. Well, in whatever conversations you had with him, he never indicated he knew where the money came from?

Mr. KOCH. He told me he did not know where the money came from.

Mr. NUNN. Did you press him on this?

Mr. KOCH. Yes, I did.

Mr. NUNN. And had he talked to Mr. Hakim or any of his associates? Did he do any investigating to find out where the money came from?

Mr. KOCH. I don't know, Senator.

Mr. NUNN. Did you ask him to?

Mr. KOCH. I asked him if it came from Albert, and he said—or one of Albert's accounts—and he said, "Albert's accounts are all frozen." I said, "There may be an account you are not aware of." And he said he didn't know.

Mr. NUNN. Did Mr. Martin concur in your resigning?

Mr. KOCH. Well, I think, in effect, it left him holding the bag, didn't it? So it wasn't the happiest sort of situation for him or myself, frankly.

Mr. NUNN. Tell us why you——

Mr. KOCH. There was no question whether he could concur or not. He had no control over my actions.

Mr. NUNN. You had the right to resign under the trust instrument?

Mr. KOCH. I didn't refer to the trust as constituting my right. I felt I had a right as a person to do it.

Mr. NUNN. Well, tell us, in your own words, why you resigned, what gave you pause on this? What made you uneasy about it?

Mr. KOCH. I was concerned with the appearance of the impropriety and the appearance, to my mind, was that anonymous money was conflicted money.

Mr. NUNN. Anonymous money was——

Mr. KOCH. Had a taint about it by definition. If it were for some benevolent association for the rehabilitation of wayward politicians and it was anonymous money, you could understand somebody was trying to be kind and put some money in there, but for General Secord, you would have to assume that if there was numbers of that magnitude from that particular source, from a Swiss bank, it had a peculiar odor to it.

Mr. NUNN. Did you listen carefully to General Secord's testimony when he came before this committee?

Mr. KOCH. Off and on I did.

Mr. NUNN. Did you hear him deny that he had any interest in profit as far as the sales to Iran?

Mr. KOCH. Yes, sir.

Mr. NUNN. Did you ever discuss that with him?

Mr. KOCH. No, sir.

Mr. NUNN. Does this large sum of money give you any pause on that testimony?

Mr. KOCH. No, sir.

Mr. NUNN. You still believe him?

Mr. KOCH. I believe him.

Mr. NUNN. You believe it was—all the so-called enterprise was all nonprofit?

Mr. KOCH. I believe that what he says he intended to do with the money, which was to convert it to the use of the Contras, that he is telling the truth.

Mr. NUNN. So you believe this is just an act of benevolence here, someone has just laid $500,000 on the general?

Mr. KOCH. Clearly, I didn't—whether it is an act of benevolence is beside the point. The question is whether that benevolent soul did it the right way. It seems to me he could have dropped by the house with a brown paper bag with $500,000 in it, and it would have been a hell of a lot better than sending it through a Swiss bank without a name attached to it.

Mr. NUNN. Let me yield to Senator Rudman at this point.

Mr. RUDMAN. Thank you, Senator Nunn.

What we will try to do is divide our time and yield back and forth so we don't get repetitive.

These hearings have been fascinating. We have all these instances of people trying to do wonderful things for people and just never telling them about it. This is another example.

This account, normally when you would get a check from a person who was one of General Secord's former associates, you would always get a check with a name on it and with a letter saying I would like to help? And, I assume you would acknowledge that; isn't that correct?

Mr. KOCH. Yes, sir.

Mr. RUDMAN. On any legal defense fund, people send money and you acknowledge it.

Mr. KOCH. Yes, that is correct, you would.

Mr. RUDMAN. And you had, in fact, or Mr. Martin had acknowledged these each time, I would take it?

Mr. KOCH. We were in the process of it. Just good manners.

Mr. RUDMAN. And now you have a half million dollars and, although you know it is from Credit Suisse, you have no idea as to the source.

Mr. KOCH. Right.

Mr. RUDMAN. You personally have none?

Mr. KOCH. Correct.

Mr. RUDMAN. Does Mr. Martin have any idea that he has related to you?

Mr. KOCH. I don't think he does, Senator.

Mr. RUDMAN. And General Secord, who is the beneficiary, has no idea. Is that correct?

Mr. KOCH. That is his statement to us.

Mr. RUDMAN. And you pressed him on that and General Secord said just some nice person must have decided to send me a half million from Credit Suisse?

Mr. KOCH. I didn't put his hand on the Bible. I just asked him a couple times and he said that he didn't know where it came from.

Mr. RUDMAN. Is one of the reasons that you answered Senator Nunn as you did, Mr. Koch, is that you have got some grave concerns as to the possible sources within Credit Suisse, knowing what you know about this entire transaction as to what that money might represent?

Mr. KOCH. Yes, sir.

Mr. RUDMAN. Thank you.

Senator Nunn.

Mr. NUNN. Shifting to another subject, let me ask you, Mr. Gaffney, this exhibit 5 you went into a couple minutes ago was a memo from you; is that correct?

Mr. GAFFNEY. Yes, it was a point paper I prepared for the use of the Secretary of Defense.

Mr. NUNN. Who did it go to again?

Mr. GAFFNEY. It went to General Powell, and presumably he further gave it to the Secretary.

Mr. NUNN. You think the Secretary of Defense got this memorandum?

Mr. GAFFNEY. I don't know for sure.

Mr. NUNN. You don't know but——

Mr. GAFFNEY. That was its intended purpose.

Mr. NUNN. If you turn over to page—the last page—I can't read the number on this page—the last page of the memorandum beginning up at the top, and it is very difficult for me to read this copy. Do you have that before you?

Mr. GAFFNEY. Yes. I have another copy.

Mr. NUNN. You can probably read it better than I can.

It starts up at the top, the political drawbacks are equally formidable.

You see that?

Mr. GAFFNEY. Yes.

Mr. NUNN. I would like to go over each one of those with you.

And, Mr. Koch, I want to get you in on this. I want to see if you agree with this.

This was, of course, the forecast that you made about the sale of arms to Iran. The first sentence, if Iraq ever found out they would be greatly irritated, was that one of your predictions?

Mr. GAFFNEY. Yes, sir. That is what I wrote.

Mr. NUNN. This was a prophecy, Mr. Gaffney. Do you think that prophecy came about?

Mr. GAFFNEY. As far as I know, I don't think the Iraqis are very happy about all this.

Mr. NUNN. Another way of saying they were greatly irritated, as you predicted, right?

Mr. GAFFNEY. Yes.

Mr. NUNN. Mr. Koch, do you agree with that?

Mr. KOCH. That the Iraqis are greatly irritated?

Mr. NUNN. Yes.

Mr. KOCH. I would agree. I wouldn't think it was a major consideration but I agree. I agree that they are, yes.

Mr. NUNN. The second prediction you made was Saudi Arabia and other gulf states would also be irritated and alarmed.

Mr. Gaffney, do you think that prophecy has come about?

Mr. GAFFNEY. Yes, I do. I think, from what I gather, I think the states in those regions are very polite to us and we may be suffering an excess of politeness from time to time, but the second word, that they are alarmed, is without doubt true.

Mr. NUNN. Mr. Koch, do you agree with that, or would you like to add your comment?

Mr. KOCH. No, sir. I agree with that.

Mr. NUNN. You include in that the country of Kuwait?

Mr. GAFFNEY. That's right, Kuwait, Bahrain, Saudi Arabia, United Arab Emirates and Oman.

Mr. NUNN. Do you agree with that, Mr. Koch?

Mr. KOCH. Yes, sir.

Mr. NUNN. Mr. Gaffney, last fall we found out in other hearings which we are very involved with now on Persian Gulf policy, that Kuwait went to the Soviet Union and asked the Soviet Union to assist them in protecting their vessels in the Persian Gulf.

Flagging of vessels was proposed, and I think they settled on the leasing of Soviet vessels with Soviet protection.

Do you believe that there is any connection between the irritation which Kuwait and the other gulf states have experienced because of the arms sale and the Kuwaitis' invitation to the Soviet Union into the Persian Gulf?

Mr. **Gaffney**. Oh, I would think there was a connection. I wouldn't think it is necessarily a very direct connection, but it is a sign of the general alarm and insecurity they feel.

Mr. **Nunn**. Mr. Koch, would you please comment on that?

Mr. **Koch**. I wouldn't see a direct cause and effect relationship there, Senator. I think what we are talking about here in these hearings provides an opportunity or justification for various kinds of diplomatic mischief-making, but it is not to say if we were not involved in the arms sale deal the Kuwaitis wouldn't have gone to the Soviets anyway.

Mr. **Nunn**. Perhaps they may have gone anyway, but it could have been a factor, right?

Mr. **Koch**. It is a question.

Mr. **Nunn**. The third forecast you made, quoting your memo, if Israel were used as the laundering country, they would be greatly encouraged to continue selling to Iran and to expand their sales.

Mr. Gaffney, has that occurred?

Mr. **Gaffney**. I don't know. I am not privy to any intelligence on that score. That is my belief. That has been our worry and suspicion all along.

Mr. **Nunn**. Mr. Koch?

Mr. **Koch**. My understanding was that the Israelis didn't need any encouragement to sell to Iran and they had been—my understanding is—I don't know for a certainty—that they were selling to Iran on a regular basis.

Mr. **Nunn**. The next prophecy you made, Mr. Gaffney, was, quoting again, if the sale became known, all bars would be removed from sales by such countries as Spain, Portugal, Greece, United Kingdom, Italy, Federal Republic of Germany, countries who are only barely restrained from overt large sales to Iran now.

Do you think that prophecy has come true?

Mr. **Gaffney**. Well, I don't have any specific intelligence that it has, but I still feel that our ability to run an Operation Staunch has been greatly compromised.

Mr. **Nunn**. Mr. Koch?

Mr. **Koch**. I would concur with that.

Mr. **Nunn**. The last prophecy, I suppose in the form of a summary, in short, the risk is that of prolonging and intensifying the Iran-Iraq war while seriously compromising U.S. influence over Israel and other countries to restrain sales to Iran.

Mr. Gaffney, do you think that that has come about?

Mr. **Gaffney**. Well, I would say that I had been involved in watching this Iran-Iraq war since it broke out in 1980. I was Director of the Near East-South Asia region then and we formed a working group which attended to the security of the other gulf states while the war went on, and we always worried about it spreading across the gulf and interfering with oil supplies.

I think we have definitely seen an intensification of that war over the last several months.

Mr. **Nunn**. So do you believe this prophecy has been reasonably accurate?

Mr. GAFFNEY. I believe that this prophecy is accurate in that what we did encouraged the participants to intensify that war.

Mr. NUNN. Mr. Koch?

Mr. KOCH. I have no thoughts on that, Senator. I don't want to respond to that.

Mr. NUNN. Mr. Koch, you mentioned a few minutes ago, quoting you if I got my notes right, and I'm not sure I did, that you were very much against this arms sale; correct?

Mr. KOCH. I was against it at the beginning, Senator. I wouldn't say I was against the arms sales. I was against the ransom deal which, to my understanding at the beginning of this, involved giving the Iranians HAWKs in exchange for our hostages.

Mr. NUNN. So you understood from the very beginning that we were exchanging arms for hostages?

Mr. KOCH. That was the initial understanding.

Mr. NUNN. You stated here, quoting you, "not making concessions to terrorists was the only fig leaf we had left," and you were referring to our fight against terrorism.

Mr. KOCH. That is correct.

Mr. NUNN. You are an expert in this area, and I have heard you on other committees—would you tell us because I think we are concerned from a policy point of view, that is a very strong indictment of our antiterrorist policy.

You are saying the only fig leaf we had left was being thrown out the window with this arms sale.

Could you expand on that and tell us what is wrong with our antiterrorist policy from your viewpoint?

Mr. KOCH. A number of things are wrong. Principally, the fact that it is not structured correctly in terms of command and control of, not the actual forces themselves, but that political level of decisionmaking process which governs the effect of dealing with terrorism is totally messed up, has always been, from the beginning of this administration, the object of extensive turf battles, principally over the question of where ought to be the situs of authority for this.

That disagreement has been between the State Department and various other elements of the government at various times.

The difficulty Senator is simply this—is that in the event that you choose to resort to a force option, for example, that requires a decision by the White House.

The State Department is not a player in that, that is an NCA decision, National Command Authority decision. We have always believed, and the Defense Department position on this has been very consistent, that you needed this decision-making process in the White House because you didn't want the President brought into it four or five steps into an event in which now you are coming to him and saying we want to use shooters.

That is only one small part of it.

The larger part is that once terrorism moved away substantially from hostage-taking, hostage-barricade incidents—we have hostages indeed, but this is not like having them in a building that you can get to—once we found ourselves able to cope with that kind of a problem generally and had enjoyed a number of successes in it over a period beginning with Entebbe. And coming forward, generally terrorism had tended to move away from that, moved toward immediate conclusive events, bombings, assassinations, things which you couldn't do anything about, counterterrorist forces gave you no option to deal, so it meant that you had to find some other means of doing it, and generally that meant going after the folks and dealing with them in various ways.

Force might be one option, psychological warfare another possibility. There is a whole range of options available to you.

But to do any of that, you had to plan for it and the planning process was what confounded our efforts here for the simple reason that the State Department is at best first among equals among the agencies involved in this effort, and if the State Department wants the Pentagon to do something and the Pentagon doesn't want to do it, I won't give you vernacular phrases, but they won't do it and the same thing in the dealings with the CIA.

Mr. NUNN. You are saying the organization was not correct, the planning was not correct, you are saying the implementation was not correct, there are interagency disputes. Where does the responsibility lie for making these corrections within the Executive Branch?

Mr. KOCH. The responsibility lies with the President, Senator, there's no question about that.

Mr. NUNN. What is wrong?

Mr. KOCH. Every time we had an incident, going back to James Dozier, coming forward to whatever the most recent event is, the last one, that had the most explosive effect was TWA 847 in June of 1985, and all the intersticial events, the bombing of the embassy in April 1983, the bombing of the battalion landing team in October of 1983, the bombing again of our embassy in Beirut in September 1984, the *Achille Lauro* and some events not so readily publicized. And every time we had one of these we found we had done it wrong. And every time we found we had done it wrong, we would have a big-lesson-learned thing and find some admiral to figure out what was wrong with it and having done that, the assumption was that you had acquitted yourself when you did the report and you walked away and conducted business as usual.

So we never at any point made changes in accordance with the findings——

Mr. NUNN. So the lessons learned weren't really learned?

Mr. KOCH. That is correct.

Mr. NUNN. Who do you blame for that?

Mr. KOCH. I am not here to assess blame. The administration has a system for making these kinds of determinations. The most recent one was the Vice President's task force in which every single expert, you wouldn't believe how many experts on terrorism there are, got dragged through this process, plus all the other agencies and every single one of them without exception said you are structured wrong, you have to put this in the White House.

As an extra attraction, they got a PR firm to tell them who the American people thought responsible and lo and behold they thought the President was and the determination was made that it ought to go to the White House.

Be damned if they didn't leave it to the State Department. We left it at the State Department, but among ourselves we moved it to the White House and created an operation there and that became one more collateral duty for Ollie North, who was vastly overworked to begin with.

Mr. NUNN. I yield. Thank you.

Mr. RUDMAN. Thank you, Senator Nunn.

Dr. Gaffney and Mr. Koch, your professional reputations precede you here. I would observe, Mr. Chairman, that it is rather interesting to find sitting at the same table a political appointee and a career civil servant, both who came up with all the right answers at the right time, raised all the objections, had the maturity of judgment to understand the global effects of what was being talked about and were obviously vastly superior to people in the White House, within the NSC, who were managing this disaster.

It is a shame, Dr. Gaffney, that your exhibit no. 5, which Senator Nunn has just taken you through, couldn't have been shown to the President by someone who could have gone through it point by point. It might have given him pause.

I doubt he ever got the benefit of that kind of a briefing.

I just have a few questions because your testimony has been thorough. I have two or three points. Probably none for you, Dr. Gaffney.

Mr. Koch, I have several questions.

First, on the cost of the TOWs, as I understand your testimony, is it not a fact that irrespective of what our Government finally sold them for, we couldn't replace those TOWs very well. We would buy TOW IIs so if we sold for $4,500, we would have to pay $11,000 to replace Army stocks; isn't that correct?

Mr. KOCH. That is correct.

Mr. RUDMAN. Because we weren't going to buy old TOWs when we could buy new TOWs, yet the old TOWs have real value, they work!

Mr. KOCH. That is correct.

Mr. RUDMAN. On that point—did you do a readiness assessment? Did you ask people in the Department of the Army to do a readiness assessment? After all, here we are, always talking about coming up to Senator Nunn's committee and the subcommittee I serve on in the Appropriations Committee and complaining about the short ammunition supply we have in terms of mobilization.

Did anybody do a readiness study as to the impact of this in terms of the U.S. Army or in terms of mobilization?

Mr. KOCH. I believe that Dr. Gaffney called to the attention of the appropriate people the necessity—the probable impact on readiness or on readiness that there would be an indication that such an impact would occur and that that needed to be taken into consideration, and I assume that the Army did do that; yes, sir.

Mr. RUDMAN. Dr. Gaffney, do you want to add to that?

Mr. GAFFNEY. Exhibit 9 did talk about the difficulties that the Army would have. It talked about their asset position and said that the impact on the Army of shipping 3,300 I-TOWs immediately would be serious, but not intolerable.

Mr. RUDMAN. What was the inventory at that time, if it is not classified?

Mr. GAFFNEY. It is classified.

Mr. Rudman. Was it considered sufficient in case of the normal mobilization we think of in Europe, and the moving of men and equipment into the POMCUS sites and TOWs over there?

Mr. Gaffney. Well, I don't know. I don't think we ever got to that point of having to ask the Army to render a definitive judgment on that.

As you know, the law provides that we should notify the Congress if there is a significant adverse reaction.

Mr. Rudman. That is if we follow the normal procedures, which you, of course, could not do?

Mr. Gaffney. That is right.

Mr. Rudman. Had you done it normally, Congress would have been notified and the first thing Senator Nunn's committee would have looked at would be readiness of the Army; correct?

Mr. Gaffney. Correct.

Mr. Rudman. So as a practical matter, one of the other results of this kind of a circus was to not only override whatever judgment the Army might have had, but to deprive the oversite committees in the Congress to decide whether a sale of TOWs to Iran, through Israel, could affect U.S. Army readiness and American soldiers in the case of a serious conflagration; am I right?

Mr. Gaffney. That is right. We would have to check whether there was a violation—I believe there is a Nunn amendment saying we should not take war reserve stocks for foreign military sales.

Mr. Rudman. That is exactly right.

You got to my next point. I am surprised that my colleague didn't mention it. I was going to ask whether or not anybody looked at it in terms of the Nunn amendment because I am aware of the TOWs inventories, I assumed they were classified.

We don't have an abundance of them, do we?

Mr. Gaffney. You never know. In the conflict—a conflict which broke out in Europe would involve very intensive use of TOW missiles as the prime ground weapon against tanks and one would have to consider that very carefully.

Mr. Rudman. That is exactly the point I am raising because it is the European scenario that we are concerned about and which we spend one third of our defense budget for and we are always getting complaints from General Rogers about ammunition supplies and I guess we can for the record they don't think we have enough TOWs. We didn't sell them all, but the plan was to sell how many, 3,300?

Mr. Gaffney. Yes, sir.

Mr. Rudman. Mr. Koch, last question and our time is up. What we had here was a transaction where we sold them for the low dollar of 44, 45 hundred dollars. They were sold to the Iranians, as you know, for something over 10, I believe. There was quite a differential there. That money, of course, resides someplace else and if the U.S. Army has to replace those TOWs for any reason, then it will have to buy TOWs at $11,000 plus; am I correct?

Mr. Koch. That is correct.

Mr. Rudman. I thank you both for your testimony. You are very professional people. I wish people had listened more closely to you and we wouldn't be here.

Chairman **Inouye**. The Chair recognizes Congressman Broomfield and Congressman DeWine for a total of 30 minutes.

Mr. **Broomfield**. Mr. Koch, Congressman DeWine will be asking you some questions, but I am going to ask Dr. Gaffney a few questions.

Most of my questions you have answered very well. I wondered it you would comment about the Arms Export Control Act applied to overt transfers of arms to foreign countries which the Defense Security Assistance Agency conducts?

Mr. **Gaffney**. Yes, sir. What is your question?

Mr. **Broomfield**. I want to know if it does apply?

Mr. **Gaffney**. Yes. That is our Bible.

We keep that act on our desks and administer the program with direct reference to the Arms Export Control Act.

Mr. **Broomfield**. Does the Arms Export Control Act apply to covert transfers of arms to foreign countries, which the CIA conducts under Presidential Covert Action Findings?

Mr. **Gaffney**. No, it does not.

Mr. **Broomfield**. Are you a lawyer?

Mr. **Gaffney**. No, sir.

Mr. **Broomfield**. In your job with the DSAA, from whom do you seek legal advice?

Mr. **Gaffney**. We have our own resident general counsel, Jerome Silber, sitting behind me. He is also the member of the Defense Legal Services Agency. That is, he also reports to the OSD general counsel.

Mr. **Broomfield**. The reason I asked, I wanted to know, did you receive any legal advice in November 1985, concerning the issue of possible sales of arms to Israel or Iran?

Mr. **Gaffney**. The only question in connection with the point paper that I did was because Colin Powell had asked me what about third country transfers. I went to Mr. Silber and said, "which section of the Arms Control Export Control Act covers third country transfers," to which he answered, "Section 3–D," which I then went and read in detail.

Mr. **Broomfield**. On March 13, 1987, the Comptroller General of the United States sent his investigative conclusion on the DOD-to-CIA transfer of arms for sale to Iran. He concluded, among other things, "DOD acted properly in treating the transfer of arms to the CIA as an interagency transfer governed by the Economy Act."

He went on to say that "the pricing and congressional reporting requirements of the Arms Export Control Act, the legislation which normally governs DOD arms sales to foreign governments, do not apply to these transactions."

Dr. Gaffney, do you have any information which would lead you to disagree with those conclusions of the Comptroller General?

Mr. **Gaffney**. No, I do not.

Mr. **Broomfield**. You have suggested that the arms transfers have intensified the Iran-Iraq war. Would it surprise you to learn that Admiral Crowe, chairman of the Joint Chiefs of Staff, recently told this committee in deposition that there is no evidence that the TOW missiles are influencing the course of the war?

Mr. **Gaffney**. Yes—I am not sure I said these arms transfers intensified the war out there. I have noted an intensification.

Sometimes the relaxation of restrictions, the availability of a little bit, and other circumstances, can lead one side or another to become emboldened to do things that they might have otherwise given pause to undertaking.

Mr. BROOMFIELD. I yield to the gentleman from Ohio, Mr. DeWine.

Mr. DEWINE. Mr. Koch, I just have a few questions for you.

Let me ask you to look at exhibit no. 6, in your book. This is a note from Lt. Col. North to Admiral Poindexter.

On page 3 of that particular exhibit, it sets forth a delivery schedule which certainly appears to equate weapons for hostages.

I would also, though, direct your attention to page 1, which contains three different stated objectives. Number one, "Support for pragmatic army oriented faction." Second, "Return of the five American citizen hostages." Third, "No more terrorism directed against U.S. personnel, or U.S. interests."

I assume that you would agree that two of those objectives, support for the pragmatic faction in Iran, and no more terrorism, are certainly important U.S. objectives and interests?

Mr. KOCH. I would include all three, Congressman.

Mr. DEWINE. I am a little confused and I wonder if you can clarify for me. You testified that at first, you assumed, or it was your understanding that this was a ransom situation, where we actually were trading hostages for weapons, a straight trade back and forth.

Mr. KOCH. That is correct.

Mr. DEWINE. I take it from your testimony that later on, you moved away from that understanding and maybe your opinion changed. Could you clarify that? I don't want to put words in your mouth—maybe your opinion did not change.

Mr. KOCH. I think you are drawing the correct inference from my testimony. Initially, my understanding was that we were ransoming the hostages, and of course, that was something we thought was very wrong to do.

Then there was a period of some confusion in which it was clear that this was an arms sale, and then it was a period of time, it was not a very extensive period of time, but it was a period of time before I actually discussed this with Oliver North. This was on a secure line, and I said, "What are we doing, this is crazy."

And he indicated that the object of this was to restore the relationship with Iran. Now, that was an objective which many of us in the administration thought needed to be pursued and pursued very aggressively, and we never could get to the point of propounding a policy that dealt sensibly with the gulf.

We continued to improvise, because there was no agreement at the highest levels, at the secretarial level, that this was an issue that needed to be pursued. So, if we were going to be able to open the door to Iran, to a restoration of a relationship which is probably essential to us, if it took this process to do it, we felt, some of us felt, those of us who were involved in it could swallow it, but it was a messy way of running a railroad.

Mr. DEWINE. One of the things you stated, I believe I heard a moment ago in answer to one of the questions, was that before the American people would accept any possibility of any rapprochement, maybe not rapprochement, but any renewed relations with

Iran, that the hostage situation had to be dealt with, that that would be an insurmountable impediment to getting anything done.

Mr. KOCH. That is correct, because there was and remains in the sense that the Iranians are holding these hostages, and in fact, there is a pro-Iranian faction in Lebanon that is holding them, and there is not necessarily a direct relationship between them, and if you gave Iran all the TOWs and HAWKs in the world, it wouldn't necessarily absolutely assure that you would get your hostages back.

Mr. DEWINE. Let me turn, if I could, and ask you to turn to exhibit no. 12, please.

Mr. KOCH. My note, Congressman.

Mr. DEWINE. That would be your note, I take it, in your handwriting, is that correct?

Mr. KOCH. That is correct.

Mr. DEWINE. Could you go through again what the reference is to General Gast?

Mr. KOCH. I am not sure what the reference is, Congressman. As baldly stated, it says, "Gast said the best possibility of cover was do it black." Now, I frankly do not have a recollection of talking to General Gast about this.

Mr. DEWINE. But you are, I believe, familiar with the term "going black"?

Mr. KOCH. Sure, and it is a perfectly legitimate, unexceptional procedure.

Mr. DEWINE. That's what I wanted to get into with you. I got the feeling from your testimony or maybe the inference earlier that there is something inherently wrong with going black, or illegal or sinister, and I would like you to elaborate on that.

Tell us exactly what you understand that to mean, and what the legal implications are of that.

Mr. KOCH. I don't want to get too deep into it, because I get over my heard fast, but doing it black is doing it in a covert way so you are not going through normal channels. Even when you do it black, there are notification requirements.

Mr. DEWINE. A Presidential Finding?

Mr. KOCH. Yes, sir.

Mr. DEWINE. And the Economy Act comes into play in the sense that the transfer between the Department of Defense and the CIA would have to comply with that——

Mr. KOCH. It is an accounting procedure, in effect. You think we are all one big happy government, but it is a lot of little fiefdoms, and if I give you something that is on my books, we have to transfer it to your books.

Mr. DEWINE. I assume the basic theory behind the Economy Act and behind such a transfer is that if anybody comes in and wants to know what something cost there is a true cost reflected there, that a CIA operation, for example, if you do it black, they pay whatever the fair value is, I assume that is the rationale?

Mr. KOCH. I don't know how you would arrive at fair value.

Mr. DEWINE. That obviously is a problem in this case.

Mr. KOCH. When I negotiated a deal, I was concerned with paying what those things would cost, but as Senator Rudman points out, that deal is no longer available to you, and if you are going to replace them, you are going to pay a lot more. So you are dealing with theories in effect, but the reality favors Senator Rudman's construction.

Mr. DEWINE. You testified in regard to a conversation you had with Secretary Weinberger with regard to going to jail. I believe you testified that it was your understanding, you didn't take him seriously?

Mr. KOCH. I did not, no.

Mr. DEWINE. To your knowledge, during this particular transaction as to what you have testified to, did the Secretary do anything illegal?

Mr. KOCH. I have no idea. I don't know to this day that anything illegal was done. I talked to one of your counsels yesterday in an elevator and he doesn't know, either.

Mr. DEWINE. I have one final question having to do with the use of covert activity. This committee is looking at the facts of what happened in regard to the Iran arms sale, with regard to Central America.

We are going to get the facts out, I don't think there is any doubt about that. We are getting them out in great detail. I think that is a thing that needs to be done, and I think a thing that this committee has taken a bipartisan approach about.

The other thing, though, that is going on is there is a debate going on in the committee, and I think there will be a debate going on when the report is written by the committee about the future of American foreign policy.

We have some very important, very significant, for the American people and for the future of our country, things to argue about and things to decide. One of the things we are going to try to do, I hope, is to get a bipartisan foreign policy.

But one of the things that is going to be debated, I am sure, whether it is in this committee or on the Floor of Congress, for years to come is the use of covert activity. You are an individual who was the expert in our government. I know you testified there were a lot of experts, but you were the person who was dealing with terrorism.

You have seen the use of covert and overt activity. I wondered if you could comment about covert activity in general. I have the feeling that there are some people, maybe not in the Congress, but there are some people who feel that the use of any covert activity by the U.S. Government is wrong, that we should never use it in the future and that that maybe is one of the lessons that is coming out of these hearings.

I happen to disagree with that, but I just wonder if you could comment as a person who has been intimately involved, since, I believe you testified, 1981, high level in the administration, you are now out—what is your opinion about that?

Mr. KOCH. I think it would be a tragic conclusion to this whole affair if the effect was to reduce our ability—and in the mind of many people, it has been substantially reduced—the ability to conduct covert activities.

The simple fact that we are having these hearings, and I think—and you point this out as a laudable thing, and I don't deny this effort to get at the facts, but in the process—this is not a very elegant process, and in the process a lot of things that don't need to be gotten out come out as well.

And I am reasonably certain that all of those intelligence agencies that we have to deal with, those police agencies we have to deal with, and people that we are dealing with, and possibly most of the people in this room would be surprised at that, they have got to be sitting on the edge of their chair cringing that something is going to come out.

Mr. DeWine. Thank you.

Mr. Koch. This will damage our relationship, damage their interests, get somebody killed, and that is a very real possibility as we sit here. And so, I think as one sometimes tries to look at our country through the eyes of others, there is a sense of a lack of maturity, I guess, as a Nation that if you—you have this notion because you are so powerful, because almost nothing can happen to our lovely country, that no matter how rambunctious your press is, no matter how self-seeking your politicians are, that there will be no ultimate conclusive and irrevocable effect to the national interest.

We don't live in that kind of world anymore. So, I think we need to take into account—there is a reality in which people have to do things that are not taught in Sunday school. This hostage situation could be resolved rather handily if we chose to do it, but these are not the sorts of things we are prepared to do, because we indulge the luxury of pretending we have some higher morality.

Mr. DeWine. Would you say, Mr. Koch, there has to be something logically between all-out war and pure diplomacy, there has to be another—some tool in that——

Mr. Koch. This is not our choice. We are having this inflicted on us by our adversaries in the world today. It is the low intensity conflict question which a number of Members here have a direct clear interest in, and which is essentially the reason I left the administration, and which we seem not to be prepared to take into account.

But the fact that you don't recognize that your interests are being damaged doesn't stop other people from damaging them.

Mr. DeWine. Mr. Koch, thank you very much.

Chairman Inouye. The Chair would announce that the House is now conducting a roll call vote.

The Chair now recognizes Senator Nunn and Senator Rudman.

Mr. Nunn. Thank you, Mr. Chairman.

Mr. Koch, you said just a minute ago that we could have solved the hostage situation rather handily, but we chose not to do so. I would certainly, and I am sure all of us would be interested, as long as it is not something that is classified, for you to tell us what the solution was and is.

Mr. Koch. Well, Senator, I think it is just a simple question of recognizing the way your adversaries deal with you, and being a little more creative and a little less fastidious about the way you deal with them.

So, I think that would be my shorthand response. If you want a more imaginative answer, I would go pay a call on Mr. Fadlallah, who is the head of Hizballah, the pro-Iranian Shi'ia faction in Beirut, and I would take him off to a nice warm dry place and I would take off something that is not lifethreatening like a finger, and wrap it in a note to Imad Mughnia need that says, "There is a lot more where this came from," and "I would like to see my hostages in the bar in the Commodore Hotel by Friday C.O.B., and if not, we will be sending some more of this stuff around."

Mr. NUNN. I assume you hadn't gotten a legal opinion on that one?

Mr. KOCH. No, sir. Well, it turns out——

Mr. NUNN. You are saying we have to get very tough.

Mr. KOCH. Yes, that is the way to put it.

Mr. NUNN. There are countries in the world that do that, are there not?

Mr. KOCH. The Soviets got their hostages back precisely that way.

Mr. NUNN. Something like that.

Mr. KOCH. Yes, sir.

Mr. NUNN. Let me ask you about—Mr. Gaffney in particular, and both of you really, about the readiness question that I think is important here.

Senator Rudman has gotten into it, and I would like to pursue it briefly. In the ordinary course of selling arms to foreign countries from the stocks of our own Armed Forces, what is the procedure we go through to determine whether by selling those arms, we are damaging the ability of our forces to fight, which is what we call readiness?

What is the normal procedure, Mr. Gaffney?

Mr. GAFFNEY. Well, if we are going to sell from stocks, we, of course—of course, the service which owns that stock has to prepare the letter of offer and acceptance and determine whether the materials are available, and the Secretary of Defense bears that responsibility within the Arms Export Control Act and under the Foreign Assistance Act.

Mr. NUNN. So, readiness is——

Mr. GAFFNEY. So, we rely on the military service to signal to us the degree of hurt that they are going to experience by this proposition.

Mr. NUNN. What do you do on a covert sale?

Mr. GAFFNEY. I have no idea.

Mr. NUNN. You don't get into that?

Mr. GAFFNEY. No.

Mr. NUNN. When the CIA requests arms, there is no procedure that you are involved in yourself?

Mr. GAFFNEY. Not that we are involved in, no.

Mr. NUNN. Mr. Koch, do you know?

Mr. KOCH. No, sir, I do not.

Mr. NUNN. We will need to get into that with other witnesses in terms of at least the procedure, but in this case, as far as you know, there was a by-passing of that procedure that you have just described, Mr. Gaffney?

Mr. GAFFNEY. Well, as far as I know, it never got to the point of becoming a proposed foreign military sale, that is, these were just propositions advanced for debate over at the White House, that is, that is as far as we knew at that time in 1985.

Mr. NUNN. Well——

Mr. **Gaffney**. If it had gotten more serious on our circuit, I think those questions would have been more seriously examined.

Mr. **Nunn**. Of course, we did transfer arms, did we not?

Mr. **Gaffney**. As far as I know, but through some other means.

Mr. **Nunn**. So, did anyone check readiness, that is the point I am getting at?

Mr. **Gaffney**. I do not know.

Mr. **Nunn**. As far as you know, they did not?

Mr. **Gaffney**. Well, not through our agency.

Mr. **Nunn**. Well, do you know whether—you made a reference to it in one of your remarks, did you not, one of your point papers?

Mr. **Gaffney**. Yes, we did. I think it was number 5.

Mr. **Nunn**. I believe it is exhibit 9.

Mr. **Gaffney**. No. 9, yes. Exhibit no. 9, as I said there, the second paragraph under I-TOW, our agency had expressed an opinion at that time that, based on the numbers, the impact on the Army of shipping 3300 I-TOWs immediately would be serious, but not intolerable.

Mr. **Nunn**. How did you make that assessment?

Mr. **Gaffney**. I think it was probably based on the information the Army gave us. For instance, they reported to us that no missiles would have to be taken from troops, but that they would be able to be taken from stocks in the United States.

Mr. **Nunn**. So, the Army did give you an opinion on this?

Mr. **Gaffney**. I would think that—without having been the recipient of that particular information, I believe that came from the Army.

Mr. **Nunn**. Did anyone ask the Joint Chiefs whether this would have an impact, these proposed sales or transfers would have an impact on readiness?

Mr. **Gaffney**. Not to my knowledge, in neither the exercises in which I was involved did we go to the Joint Chiefs of Staff.

Mr. **Nunn**. The Joint Chiefs were by-passed as far as you know?

Mr. **Gaffney**. Well, I wouldn't say by-passed. We went right to the Service which would be the one that would have to render the opinion, back through the Joint Chiefs of Staff, anyway.

Mr. **Nunn**. Would you be surprised to learn that in some of the spare parts we sold here to Iran that we depleted our own stocks 100 percent?

Mr. **Gaffney**. I did not know that.

Mr. **Nunn**. But that kind of assessment was never made?

Mr. **Gaffney**. It did not come through our agency.

Mr. **Nunn**. That is all the questions I have, Mr. Chairman. Thank you.

Mr. **Rudman**. Mr. Chairman, I have no further questions at this time.

Chairman **Inouye**. Thank you, gentlemen.

Senator McClure?

Mr. **McClure**. Thank you very much, Mr. Chairman.

Mr. Gaffney, you testified that the United States must grant written approval to a country to transfer arms to a third country of those arms that we have supplied to them. Prior to the Iran initiative, which began in the summer of 1985, are you aware of any other Israeli transfers to Iran?

Mr. **Gaffney**. No, I am not aware. I mean, there has been rumors of them, but I personally was not in a position to be aware or to judge the substance of those rumors.

Mr. **McClure**. If they had gone in the ordinary course of events, would you have been aware?

Mr. **Gaffney**. Yes, we would be. Our agency—well, not as a third party transfer, but as a direct sale to Israel, yes, we would—we are well aware of those.

Mr. **McClure**. If it had been Israel's sale to Iran from material sold to Iran by the United States, you would have been aware?

Mr. **Gaffney**. No, we would only be aware of materials sold from the United States to Israel. For those that have gone to Israel and further transferred, we would not have been aware unless the Israelis told us or we picked it up on some intelligence network.

Mr. **McClure**. According to the agreements, they are supposed to notify us of any resale, is that correct?

Mr. **Gaffney**. That is correct.

Mr. **McClure**. But if they do not, we would not know it unless we picked it up in intelligence or unless they asked us?

Mr. **Gaffney**. That is right. That is my understanding.

Mr. **McClure**. Mr. Koch, do you know of any such transfers?

Mr. **Koch**. I have no specific evidence of that. We only know the rumors.

Mr. **McClure**. As I understand from some of the materials that are before us in the several memoranda that have been referred to earlier today, this was a matter of concern to us, that is, Israeli sales to Iran.

Mr. **Koch**. That is correct.

Mr. **McClure**. Is that correct, Mr. Gaffney?

Mr. **Gaffney**. That is my understanding. I had been to at least one meeting where there had been a confrontation on that score.

Mr. **McClure**. Mr. Koch, how well do you know Mr. Ledeen?

Mr. **Koch**. Oh, reasonably well. I don't know him real well, but I——

Mr. **McClure**. When did you first meet him?

Mr. **Koch**. I think I met him back roughly at the end of 1981. I don't recall precisely how. I think we spoke together at some event, or something.

Mr. **McClure**. And you've had contacts with him several times since that time?

Mr. **Koch**. That is correct.

Mr. **McClure**. He had been described in some press articles as an expert on terrorism. Now you said a while ago there are a lot of experts on terrorism. Do you regard Mr. Ledeen as an expert on terrorism?

Mr. **Koch**. No, I do not.

Mr. **McClure**. You have had a number of conversations with him in an area where you are charged with responsibility on terrorism policy, is that not correct?

Mr. **Koch**. No, I had him as a consultant for a while, and I discovered then that I didn't need his services, so we let them lapse.

Mr. **McClure**. Did Mr. Ledeen ever ask you or, to your knowledge, anyone else what a TOW missile costs?

Mr. **Koch**. No, no, sir.

Mr. McClure. So his representation of price would have been without any—the advantage, so far as you know, of any inquiry on his part to you or to others about what the price should be?

Mr. Koch. At the time this thing began or went on, I had not had a relationship with Mr. Ledeen. There was a period in which, for reasons that I thought were good and sufficient, I stopped letting him read the classified as a consultant and immediately I stopped, he stopped coming around, so we didn't see much of him after that.

Mr. McClure. Mr. Gaffney, how well do you know Mr. Ledeen?

Mr. Gaffney. I don't know him. I only heard him deliver a lecture about 10 years ago.

Mr. McClure. Do you know of any instance in which he may have inquired concerning the cost of a TOW missile?

Mr. Gaffney. I don't know of any.

Mr. McClure. Or a HAWK missile?

Mr. Gaffney. I am not familiar.

Mr. McClure. Mr. Koch, I believe you indicated that when you met with Mr. Ben Yosef at National Airport to negotiate a price for the TOWs that the Israelis were interested to see the deal go through, I think that was your words. Is that a fair summary of your earlier remarks today?

Mr. Koch. That was my understanding, yes, sir, and that is a fair summary of my remarks.

Mr. McClure. What was the Israeli's interest in seeing that the deal went through? What did they stand to gain?

Mr. Koch. I think that whatever else they stood to gain, they stood to gain from seeing a protraction of the war in the gulf and certainly no conclusion to that war which favored Iraq which they have a greater fear of, it seems to me, than Iran, although from reading the newspapers, it is six of one and half a dozen of the other.

Mr. McClure. Would you refer to exhibit no. DOD-6, please. It is a note from Colonel North.

Mr. Koch. Yes, sir.

Mr. McClure. If you look down on the first page of that, in the beginning of the fourth paragraph the second paragraph from the bottom, "from these ongoing discussions which in two cases included Iranian military officers, Copp and Kimche"—I can't read that.

Mr. Koch. That word is probably Kimche, Senator.

Mr. McClure. "Conclude that the military situation in Iran is desperate."

Mr. Koch. Yes, sir.

Mr. McClure. Would you concur with that statement?

Mr. Koch. Well, I don't know what the military situation is, but obviously if the Iranians were trying to get weapons from us and trying to make a case for that, they would not say that everything was hunky-dory, they would probably say they needed them, and from that you might conclude that the situation required them. It was desperate.

Mr. McClure. Mr. Gaffney, would you concur with that assessment of the situation between Iran and Iraq at that time?

Mr. GAFFNEY. No, sir, I would not. There is nothing that we could see that said that Iran had reached desperate straits. They were doing rather well.

Mr. MCCLURE. Thank you, Mr. Chairman. I think my time is up.

Chairman INOUYE. Representative Courter.

Mr. COURTER. Thank you, Mr. Chairman.

Mr. Koch, I have some questions, if I may. You said what I thought was an interesting and rather remarkable thing, you indicated that because the State Department could not by itself handle an anti-terrorism policy, it had problems in coordinating that effort, the operations of which, with the Department of Defense, we know that CIA had some problems as well in acting alone, that it really was left therefore to the White House. And the problem was dumped on Oliver North, who was overworked anyway. Could you elaborate on that statement?

Mr. KOCH. I think you have compressed a lot, Congressman, but basically the point that I didn't conclude when I was discussing this question earlier of planning is that the White House has the authority, it can't be delegated, the responsibility can, but the authority can't be delegated to another department, and in this case the State Department, as I said, was perceived as at best first among equals, and if State wanted to do something, which periodically it did, the others might or may not concur. And if it wasn't an interagency effort, it very likely wouldn't get done at all.

So we simply had, largely from the beginning in 1981 forward until September of 1984 with the accession of Ambassador Oakley, we had a very long dry spell of incessant arguments and disagreements that went nowhere. When Ambassador Oakley came in, things improved very considerably. He was not so much concerned with turf, far more concerned with getting the job done, and a very smart, tough man capable of getting it done. He didn't in all cases succeed, but things began to improve, but they never improved to such a point, and have not to this day, improved to the point where we could actually formulate a policy and execute it.

Mr. COURTER. One of the things that bothers me is we are trying to draw some lessons from these events, and one of those lessons that we, I think, may be drawing is the fact that people inside the White House did not use the normal structure, did not use the normal process—the structure being the various departments and agencies and the process means coordinating and going through those—but yet your testimony, in essence, is that State Department, being perhaps the most superior of equals, was running into problems in operations because the other agencies and departments were not working with it properly and smoothly. And that we, therefore, turned to, once again, Oliver North to, in kind of a Herculean way, solve the problems that were best suited for the various structures and departments and agencies that were placed there.

Mr. KOCH. I would like to correct the notion that there was a widespread perception of Oliver North as Herculean within the administration. I don't know where this has grown up, but those that worked with him know he worked very hard, he was very intelligent, but these heroic dimensions never revealed themselves before this thing became public, and so we didn't say, "Oh, my God, all else is lost. Let's call in Ollie."

Mr. COURTER. I know, but it almost sounds that way to me. It seems rather absurd that you would do that, but when there was a problem with hostages, Oliver North was dragged into that. If there was a terrorism problem, he was dragged into that. If there was to be an attempt to free hostages on the *Achille Lauro*, he had to do that. When it came to opening up an effort to either swap weapons for hostages or initiating an effort to create liaison and communication with the second generation Iranians, he was chosen to do that. We want to keep the effort of the Resistance in Central America alive, he was given that task as well.

It seems to me that all roads began and ended with Oliver North.

Mr. KOCH. Yes, sir, but you may be turning the logic upside down. The question that is always raised is how could a lieutenant colonel—I don't know why they say lowly lieutenant colonel, but they do—have amassed such power? And maybe a more useful way of looking at it is to conclude that all these things that got dumped on him—not that he got dragged into them, but rather they got dumped on him—is because people in the administration didn't take them very seriously. They were not neat and clean. There was not a lot of money in them. There wasn't any glory in them. The possibility of a failure was substantial, and so everybody else wanted to be out giving speeches and trying to beat the woods for a vice-presidency somewhere when they got out and got a job. The difficult work got shoveled off on people like Ollie.

Mr. COURTER. That is precisely my point. He shouldn't have been tasked with so much, and apparently he was. Difficult stuff—the stuff where there's risks involved. The things that required certain risks seemed to be placed on his desk rather than others.

Mr. KOCH. Right. I mean, it was—there were, to put it bluntly, failures in leadership here when you had to try to get these departments to function together. When the heads of at least two of those departments could never get along together, it was constant bickering, and this permeated the relationships between our respective departments; and nobody would inflict any discipline on that process and say "Look, this is fine, but let's do it after the administration." When you had that kind of situation, what evolved out of that as a result of that was an inability to make sensible policy in a sensible way. What came out of that was that you went off on this privatization route.

Mr. COURTER. I can see that. I guess I would like to make one last observation. My time is up. Oliver North, in his PROF memos, referred to the same problem. He was saying how difficult it was to get the various branches of government to coordinate, to work together. He couldn't even rely on them. I just want to talk about that, because it was interesting, your comment was the fact that the major anti-terrorism policy that you were aware of was, once again, as you said, placed on Oliver North, who was over-worked in the first instance.

Mr. KOCH. That is correct.

Mr. COURTER. Thank you.

Chairman INOUYE. Senator Hatch.

Mr. HATCH. Thank you, Mr. Chairman.

Mr. Koch, do you recall a time back in late 1985, when you were contacted by a reporter named Dale Van Atta, who was an associate with Jack Andersen?

Mr. Koch. Yes, sir.

Mr. Hatch. Do you recall that at that time Mr. Van Atta was asking you questions about the Iran initiative, and he was contemplating writing a column about that particular initiative?

Mr. Koch. Yes, sir.

Mr. Hatch. Do you recall that?

Mr. Koch. Yes, sir.

Mr. Hatch. As I understand it, Mr. Koch, you persuaded Mr. Van Atta not to write that report and not to put it into the public eye and press at that time?

Mr. Koch. I did. I might say that he gave up a Pulitzer Prize by doing that, but I thought it was an incredibly responsible thing for him to do on his part.

Mr. Hatch. I think he did too. Mr. Van Atta actually did give up that story that he had at that time. Is that correct?

Mr. Koch. Because at that time we thought if it was exposed, it would cost people's lives, but it was this initiative that we are discussing.

Mr. Hatch. What were your reasons for giving Mr. Van Atta that advice and telling him not to do that?

Mr. Koch. What I thought—I don't know where he got the information, but he got it somewhere.

Mr. Hatch. He had it pretty cold, didn't he?

Mr. Koch. He had it cold, and he came to me and asked me about it, and without going into great detail, I simply said, "Would you please drop it? If you go with this story, you may upset an important initiative; you may get somebody killed, and I know you don't want to do that. If you will hold the story, when the time comes, I will try to make it right for you."

Mr. Hatch. In fact, as an anti-terrorism expert yourself, you felt that any publicity about the story at that particular time might result in the taking of the hostages' lives, among other things, is that correct?

Mr. Koch. Well, I thought there were various things that could result from that scenario.

Mr. Hatch. A variety of things, including that?

Mr. Koch. Yes, sir.

Mr. Hatch. Let me just ask you this. I have heard your testimony, and, of course, Mr. Gaffney's as well, about Secretary Weinberger and his opposition to the Iran initiative. Do you think, in retrospect, that Secretary Weinberger went as far as he could to stop that initiative?

Mr. Koch. In all honesty, Senator, I don't know how far he went, so I can't speak to that.

Mr. Hatch. It seems to me that if Mr. Weinberger was that irritated with the initiative and knew that it was wrong and made the statements that you said here today that he made, it seems to me as a member of the National Security Council, he should have kept raising this issue and finding out all he could about it and doing everything he could to make sure that if there had to be some effort in this regard that the efforts would have been done in a proper manner. That is the point I am trying to make.

He is not alone in that. I think there are others on the council, Secretary Shultz, Attorney General Meese and others who should have kept pursuing this and finding out exactly what was going on so that they could have been some of the hedges and some of the checks and balances and some arguers for what was right with it rather than what happened here. Would you differ with that?

Mr. KOCH. No, sir, I would agree with that.

Mr. HATCH. Thank you. Thank you, Mr. Chairman.

Chairman INOUYE. Senator Sarbanes.

Mr. SARBANES. Thank you, Mr. Chairman.

Mr. Koch, or Mr. Gaffney, I am not clear, earlier when you were responding on the readiness issue with respect to the TOWs, whether you also addressed it with respect to the HAWK spare parts. Was that looked into as to what impact transfer of the HAWK spare parts would have on our readiness?

Mr. GAFFNEY. Senator, in my brief encounters with this subject from November 18 through 22 of 1985, and on December 6, 1985, the subject of HAWK spare parts never came up.

Mr. SARBANES. So there was never an inquiry into whether transfer of HAWKs or HAWK spare parts would have an impact on readiness; is that correct?

Mr. GAFFNEY. On the question of HAWK missiles, there were—there appeared to be enough available that could be rescheduled from other foreign customers to cover this requirement which was given us.

Now, what effect it might have on those countries' readiness is another question.

Mr. SARBANES. Do you know whether, after the fact, any examination was made to find whether our readiness would have been negatively impacted by that part of the transfer?

Mr. GAFFNEY. No, I am not aware of any after-the-fact examination.

Mr. SARBANES. Mr. Koch?

Mr. KOCH. No, sir, I have no knowledge of that.

Mr. SARBANES. Mr. Koch, as I understand your testimony, every one in the Defense Department was against this, was that correct, this transfer?

Mr. KOCH. Not everyone in the Defense Department knew about it.

Mr. SARBANES. The ones who knew about it?

Mr. KOCH. That is correct.

Mr. SARBANES. You thought it was crazy, you said earlier?

Mr. KOCH. I tried to be clear about the progression of my thinking on this. When it got into the question of trying to find some way to evolve a workable policy in the gulf, I didn't think it was a wonderful idea, but it began to come into focus as a possible option.

Mr. SARBANES. Let me come to that in a second, because that was an evolution in your own thinking. I think, as it started out you thought it was crazy because you thought it was a ransom move?

Mr. KOCH. That is correct.

Mr. SARBANES. And everyone in the Defense Department who knew about it thought it was crazy?

Mr. **Koch**. Four or five of us.

Mr. **Sarbanes**. Who was that?

Mr. **Koch**. There were a number of cutouts in this thing. I don't know that the people Dr. Gaffney went to knew why they were being asked.

Within the group, it would be Secretary Weinberger, General Powell, myself.

I did not tell Dr. Gaffney initially, I never told him at all. I think he found out from someone else what they were for, is my recollection.

At some point, Mr. Armitage was involved, according to testimony, much sooner than I realized, but he and I did not collaborate or coordinate on that.

Mr. **Sarbanes**. If all the ones who knew about it in the Defense Department were very much opposed to it, thought it was a bad idea, where was the motive force coming from to keep this transfer moving?

You thought it was a bad idea, General Powell thought it was a bad idea, you knew the Secretary apparently thought it was a bad idea, and yet here was the Defense Department moving this thing along. Where was the motive force coming from to move it?

Mr. **Koch**. It was coming from the White House. The departments and agencies quite frequently do things they think are stupid ideas. That is not unprecedented.

Mr. **Sarbanes**. When you say it was coming from the White House, what do you mean? It has to come from individuals, people. Who was it coming from?

Mr. **Koch**. The person that I was dealing with was Colonel North. To the extent that I dealt, I dealt with Colonel North.

Now, I deduced that his authority was something larger than a lowly lieutenant colonel by the fact that General Powell, who was at that time a two-star general, Military Assistant to the Secretary of Defense. and a very powerful and capable man. If he was doing Ollie's bidding, then he certainly wasn't doing the bidding of a lowly lieutenant colonel, he was doing the bidding of a conduit.

What was at the other end of the conduit, one would simply assume to have been the President, but I have no way of knowing that.

Mr. **Sarbanes**. Did you receive any indication from General Powell or Secretary Weinberger that would help to answer that question?

Mr. **Koch**. I think Secretary Weinberger's agitation would have conveyed the fact that he had been overridden in his objection to the plan. There are many precedents here, but there is none for a lieutenant colonel overriding the Secretary of Defense.

Mr. **Sarbanes**. We are talking now early on, this was back in November and December of 1985; is that right?

Mr. **Koch**. That is correct.

Mr. **Sarbanes**. Thank you, Mr. Chairman.

Chairman **Inouye**. Senator Cohen?

Mr. **Cohen**. Mr. Koch, Congressman Courter, in asking you a question, I think, tried to demythologize Colonel North and reduce him from Clark Kent proportions, down to a highly intelligent, active, committed lieutenant colonel, and that is your assessment, basically.

Would it be fair to say that Oliver North was just carrying out the goals of the administration, number one, to get arms to the Iranians through this covert operation, and number two, to get weapons and money to the Contras?

Mr. KOCH. Senator, this is speculation. My speculation would be that he had what he felt was a charter, and that is get the hostages back, and whatever other things conduced to that, basically, if he could get away with them, and I don't mean to say that has a pejorative tone to it, but he would go and do what he could do. He felt that it was necessary to do it.

Mr. COHEN. I think you indicated this was sort of dropped on him because nobody else wanted to take up the ball and run with it because of the low money, low priority, low risk.

Mr. KOCH. That is right. Ollie works, and that is a fairly rare thing, and when you work, people find work for you to do.

Mr. COHEN. So nobody seemed to care very much about the means selected to carry to the two twin goals, get arms to the Iranians, get money and weapons to the Contras, from your perception?

Mr. KOCH. I would say, yes. But it was probably a little more orderly than that.

Mr. COHEN. Senator Rudman said to you that had the administration listened to the two of you, we wouldn't be in this mess today and be having these hearings. If they had listened to Secretary Weinberger, we wouldn't be here today; right?

Mr. KOCH. That is right.

Mr. COHEN. If we had listened to Secretary Shultz, we wouldn't be here today?

Mr. KOCH. If we could have listened to both, and they spoke with one voice, we might not be here today either.

Mr. COHEN. And if we listened to Bud McFarlane, who after his trip to London came back to the White House and said, we are making a mistake; we wouldn't be here today. There you have three of the top National Security Advisers, as such, on foreign policy and defense policy, all three saying, don't do it?

Mr. KOCH. Yes, sir.

Mr. COHEN. And yet the program went on, to continue a theme by Senator Sarbanes?

Mr. KOCH. Yes, sir.

Mr. COHEN. You could only conclude that that had to be because somebody in the White House wanted it to continue, that somebody being the President of the United States?

Mr. KOCH. Logic takes you there.

Mr. COHEN. There is no other conclusion that one could come to, is there?

Mr. KOCH. I understand that.

Mr. COHEN. Did you see the exhibit DOD no. 10, in your preparation for these hearings? Did you review that at all?

Mr. KOCH. Do I have it in my——

Mr. COHEN. I assume that you do. If you don't, I'll just read from it. It is a memo dated, December 9, several days after the meeting in London with Mr. Ghorbanifar, from North to McFarlane and to

Poindexter. On page 3, there is a paragraph that says that the Israelis have willingly consented to kickback arrangements, which allow the Israelis control over Ghorbanifar. And they have been doing this for some time, and this allows their control.

If, in fact, if you look through the rest of the memo, and we decided to take over the handling of Ghorbanifar through Secord, would you have foreseen a problem on that?

Mr. KOCH. I am sorry, I am not reading as fast as you are.

Mr. COHEN. It is on the first page. In the middle of the page——

Mr. KOCH. All right. Could I just read this for a moment?

Could I have the question again?

Mr. COHEN. Had you had a chance to read this before?

Mr. KOCH. No, sir. I had not, actually.

Mr. COHEN. Let me go on and skip to the next page, and I will come back to both you and Mr. Gaffney in a moment.

On the last page it says, we have several options and one option is to do nothing, very dangerous since the United States has, in fact, pursued earlier Presidential decisions to play along with Ghorbanifar's plan.

Were you aware that we had been playing along with Ghorbanifar's plan?

Mr. KOCH. I was not.

Mr. COHEN. Mr. Gaffney.

Mr. GAFFNEY. I was not aware.

Mr. COHEN. Would either of you gentlemen see a problem in undertaking to have a program of kickbacks to Mr. Ghorbanifar, that might lead to a problem in terms of your analysis of the situation we might find ourselves in?

Mr. GAFFNEY. If we had known all these details, I think we would have been appalled.

Mr. COHEN. And in fact, if we had undertaken to continue a policy of kickbacks to Mr. Ghorbanifar, and then decided to cut him out of the action, would you foresee a problem with maintaining the security of the covert nature of that program at that point?

Mr. KOCH. I think that is why we are here.

Mr. COHEN. Mr. Courter asked you a question, I think a legitimate one, about whether they were following the right procedures, and you were, I believe, a member of the OSG operations security group in charge of—DOD's representative on terrorism?

Mr. KOCH. That is correct.

Mr. COHEN. Did the Iranian transfer ever come up during those discussions?

Mr. KOCH. No, sir, not directly.

Mr. COHEN. Should they have come up during those discussions, in the normal course of events?

Mr. KOCH. This thing was so compartmented that you never knew who else was involved. I knew I was involved and knew Ollie was involved, but I didn't know Bob Oakley or the CIA representatives—I could only assume they were, but I never knew it.

Mr. COHEN. But it didn't come up directly?

Mr. KOCH. I didn't come up directly, no, sir.

Mr. COHEN. If I have time, I'll ask you how it came up indirectly. Let me close. My time is running out.

The question has arisen several times in the course of these hearings about whether or not any individual, a public official, ever thought about resigning. I think the issue was put to you whether Secretary Weinberger ever thought the issue was serious enough on the legal issue as to resign.

I point out that each of us who holds public office is faced with choices. They may be political or procedural or personal or philosophical, but government is the art of compromise, and no one has a particular monopoly on wisdom or morality, and we are forced to compromise on issues almost every day.

But some issues don't lend themselves to compromise because it comes at too high a price, and I think that we in Congress have a bit easier choice than the Executive Branch. We can vote either yes or no and then go back to our constituents and try to explain why we voted a particular way.

People in the Executive Branch don't have that option. You can either go along or, as you did, get out. I think we have seen many people in government refuse to get out because they tend to rationalize that their continued presence in the government is more important than the principle involved.

There have been exceptions to that in recent memory—Bernard Kalb, Cyrus Vance, General Singlaub, and you, Mr. Koch, because your decision to resign your government position came because you became so frustrated with the most basic threat that we face today, the spread of international terrorism, and we have been paying lip service to our combatting it, and I wanted to pay tribute to you as one of those individuals who would resign rather than continue in a position which violates your first principles.

Thank you.

Mr. NUNN. Mr. Chairman, I would like to associate myself with Senator Cohen's remarks. Mr. Koch has been a very, very dedicated servant in trying to do something about the terrible plague of terrorism, and those of us that have worked with him understand that and understand how frustrated he got and how he stuck to his principles.

I would like to associate myself with the remarks of Senator Cohen.

Chairman RUDMAN. Senator Heflin.

Mr. HEFLIN. Mr. Koch, let's return to the matter of the General Secord legal fund. As I understood your testimony, you said that you had several conversations with General Secord about it and that he told you that he didn't know where the deposits came from, by "deposit" meaning the total $500,000. Is that correct, that he told you that?

Mr. KOCH. That is correct, sir.

Mr. HEFLIN. As I understand it, you also had some conversation with him and, as I understood what you said, you asked him about the accounts in Switzerland and the bank accounts being frozen.

Did you have some conversation where you asked him about how money could come from the Swiss banks or the Credit Suisse when they were frozen?

Mr. KOCH. No. My question, Senator, was three parts: Do you know where it came from; answer, no. Second, did it come from Albert—Albert Hakim; he said no. I said how do you know; he said they couldn't because Albert's accounts are frozen. I said it is possible that he has accounts that are not frozen. And the third question was did it come from any other source, from the Saudis or someplace.

Mr. **Heflin**. Did he say to you or you say to him—as I understood that, you recited first that Secord told you that there are accounts that you are not aware of.

Mr. **Koch**. I asked him—there is nothing real interesting in here, Senator. I just was fishing for the right answer and said if not there, then maybe here. It wasn't a very extensive conversation. He said no, I don't know where they came from and it didn't come from Albert.

Mr. **Heflin**. There was nothing said where he said to you that there are accounts that you are not aware of?

Mr. **Koch**. You are confusing me. I asked him if there were accounts possibly that Albert had that he, General Secord, was not aware of. That was the question that he essentially dismissed in the context of having told me that they didn't come from Albert, Albert frozen or Albert warm, there was no Albert money in it. That was his position.

Mr. **Heflin**. Have you known Albert Hakim for a long while?

Mr. **Koch**. Off and on. I am not an intimate of his, but I have known him for a couple of years.

Mr. **Heflin**. Do you know a lawyer in Switzerland by the name of Willard Zucker or Bill Zucker?

Mr. **Koch**. Only from reading the *Post*.

Mr. **Heflin**. Do you have any reason that in the event that these deposits in the amounts that they were would have come from monies that might have come from the arms diversion—why they would not have made the payments direct to the attorneys, rather than giving it to you in a trust account?

Mr. **Koch**. I suppose it had tax implications or something, Senator. I want to be clear—I think it is dumb money, I don't think it is dirty money.

Mr. **Heflin**. You think it is what, sir?

Mr. **Koch**. I think it is dumb. I think somebody who wanted to be helpful to Dick chose this way almost frivolously to send the money in. They could have more sensibly put their name on it and none of these problems would have happened.

I don't think it is money derived illegally. I have no way of knowing that, but I say to you I don't think it is dirty money.

Mr. **Heflin**. How did you become a trustee? Did Secord ask you or how did this occur?

Mr. **Koch**. I told him I was going to do it.

Mr. **Heflin**. Oh, you did it on your own?

Mr. **Koch**. Yes, sir.

Mr. **Heflin**. On your own volition.

Mr. **Koch**. Yes, sir.

Mr. **Heflin**. Did you, in effect, seek out the cotrustee, the lawyer?

Mr. **Koch**. My recollection was that I said I was going to do it and I think I went to my attorney, to Mr. Adler, and discussed it with him and how was this done, and then I wrote a fundraising letter and then I talked to General Secord and said I was going to do it.

It wasn't as though he had a choice. He suggested, I think, Sandy Martin, who provides legal advice on his financial affairs.

Mr. HEFLIN. Did you write letters soliciting money and contributions to this legal defense fund?

Mr. KOCH. Yes, sir, I did.

Mr. HEFLIN. Where did you get a mailing list?

Mr. KOCH. I used the Special Forces mailing list, and I used an Air Force Special Forces mailing list.

Mr. HEFLIN. How many letters did you send out all together, would you say?

Mr. KOCH. Before—so you understand, I wrote the letter and then Mr. Martin ran a set of letters off on his machine, on a printing machine, and then I would sign—write a little handwritten note on the bottom of that to personalize it. And this was a very time-consuming process and I had other things I had to do, so it was protracted. So I think the number of letters probably didn't exceed 1,000 or 1,200 letters.

Mr. HEFLIN. Is there any relationship as to the time of the receipt of the deposits which you have said started coming about 6 weeks ago and any specific event that has occurred, or what might have occurred in regard to these hearings?

Mr. KOCH. No, sir.

Mr. HEFLIN. Were they spaced between—were the three deposits—do you remember the timeframe between each?

Mr. KOCH. No, sir. I am not sure. It seems to me that it was in the course of about 2 weeks, but I don't remember what the spacing was.

Mr. HEFLIN. I see my time is up.

Chairman INOUYE. Thank you very much.

May we take a short recess. Senator Mitchell has just a few questions he would like to ask and he is on his way back.

[Recess.]

Chairman INOUYE. The hearing will please to come to order.

Senator Mitchell.

Mr. MITCHELL. Thank you very much, Mr. Chairman.

Mr. Gaffney, I direct your attention again to exhibit no. 5 that was the memorandum entitled "HAWK Missiles for Iran," which you testified earlier you wrote and about which you were questioned earlier.

In that memorandum, you listed three problems that you described as, and I now quote you, "formidable difficulties" with the proposal. And one of those difficulties you wrote was that "even if the missiles were laundered through Israel, Congress would have to be notified."

You then suggested that, and I quote you again, "It is conceivable that the sale could be broken into 3 or 4 packages, in order to evade congressional notice."

Regarding this suggestion, you testified here earlier that nobody suggested it to you, that in your words, "It was something I felt constrained to put in."

I have two questions. The first is, why did you on your own initiative feel constrained to propose a method of evading the requirements of the law?

Mr. GAFFNEY. Well, I think my instincts at that time were to preempt the question in case it did come up and to take that opportunity to point out that we never do any splitting like that.

Mr. MITCHELL. That was your thinking at that time?

Mr. GAFFNEY. Yes, I think so. It is hard to recollect, but I knew there was a question of threshold, I knew that somebody might raise that question so I decided to preemptively address it.

Mr. MITCHELL. You don't—in retrospect, you don't think it might have been better to wait and see if someone else proposed to evade the law and then address it in that fashion?

Mr. GAFFNEY. In retrospect, I know that even if it did split up, it would still have it show up in various ways. For instance, we would have to still have a formal letter of offer and acceptance, and we are required by the law to make a quarterly report of all transactions of over one million dollars.

So in retrospect, I know that there would be further legal difficulties in splitting it up.

Mr. MITCHELL. My second question is related to the first, why did you regard the fact that the law requires notice to Congress to be a formidable difficulty?

Mr. GAFFNEY. A formidable difficulty in the context of the highly sensitive and secretive way this was being addressed. I was told that this was a very secret, sensitive project.

Mr. MITCHELL. You mean if Congress found out about it, as many now suggest they can't keep a secret; therefore, it might become public and not be executed as planned. Is that what you were thinking?

Mr. GAFFNEY. I think so. It is my own view that one can certainly consult with enough Members of Congress to get a good reading on such a thing without necessarily, you know, leaks occurring.

Mr. MITCHELL. Well, in fact, had the congressional leadership been consulted as the law requires, and had the intention of the law been complied with, which is to receive a broader and more diverse point of view, it is conceivable that this transaction might never have occurred, sparing everyone the difficulty that has ensued; isn't that correct?

Mr. GAFFNEY. I think that is correct.

Part of the reason for writing the memo this way is to say there are difficulties in going this formal route.

Mr. MITCHELL. Well, I just have to comment that one of the difficulties that arises from this whole matter is the extent to which those persons in the Executive Branch charged with upholding, and in the words of the Constitution, faithfully executing the law, repeatedly regarded it as an impediment to be evaded at every opportunity.

Perhaps it was an unfortunate choice of words in your memorandum?

Mr. GAFFNEY. I am told that there is a legal distinction between evade and avoid, but I think I had a clear signal in writing this paper to color this paper, to make it a pretty negative exercise in doing this.

Mr. MITCHELL. Who gave you that signal?

Mr. GAFFNEY. I got that clear impression from General Powell and, therefore, I believed it was a—I can't remember specific words, but I had a clear understanding that it was Secretary Weinberger's opinion that I should put this point paper as negatively as possible.

Mr. MITCHELL. In other words, General Powell conveyed to you that the Secretary thought this was a bad idea and in Mr. Koch's words, "foolish" and, therefore, you intended to write the memorandum in such a way as to be negative about the proposal?

Mr. GAFFNEY. That is correct. That is why I used words like evade and laundering.

Mr. MITCHELL. Well, it is very troubling, Mr. Gaffney, to see that attitude, for whatever reason, so widespread and prevalent.

In our system, the legislative branch of government cannot effectively write laws if the underlying presumption of good faith by the Executive that the laws will be faithfully executed doesn't exist and, in fact, there will be a deliberate, considerable effort to evade the law and get around its requirements.

Thank you, Mr. Chairman. I have no further questions.

Mr. MCCLURE. Mr. Chairman, might I ask one further question?

Chairman INOUYE. Senator McClure?

Mr. MCCLURE. Mr. Koch, I know this has been a long afternoon, but there is one statement you made earlier today that I would like to return to, not because I know it means anything, but because I am not sure whether you were just stating the obvious or whether you intended to convey something more than you said in the words you used.

You were talking about negotiating the price upward when you sat down with the agent of the Israeli Government and at that time you described what you had in your mind as you went to that negotiating session.

You knew that they had something in mind, you had a floor price in mind and you wanted to get above that if you could and then you said you knew that if they were willing to pay a price, if they seemed to be—that they really didn't care what the price was that they had a resale in mind and that they knew they would make a profit.

I am not sure that I am using the exact words you used, but something to that effect.

Were you simply stating the obvious or trying to convey something by that statement?

Mr. KOCH. I wasn't trying to convey anything. The question really had to do with what was—to misuse the word—the psychology of the negotiation in trying each side to figure out—the question was what is your floor and what was their ceiling and how do you arrive at a conclusion about that?

So you knew that they would not let me push this thing up beyond a certain point, and I was sure that they would recover it.

Colin Powell and I discussed this, that they were probably making a killing on this, but in the context of the negotiations, they would not reveal that and to have said the sky is the limit, whatever you want us to pay, would have revealed it.

Mr. McClure. And the price negotiated, $4,500, what did that tell you about their pyschology and whether or not they were indeed making a killing on them?

Mr. Koch. It didn't tell me anything. It seemed to me that was a fair price. That was about where they would come out and that's where we did.

Mr. McClure. So you couldn't read anything into that?

Mr. Koch. No, sir.

Mr. McClure. And I shouldn't try to read anything into your comment?

Mr. Koch. No, sir.

Mr. McClure. Thank you very much.

Thank you, Mr. Chairman.

Chairman Inouye. Mr. Koch, Dr. Gaffney, on behalf of the House and Senate Committees, I thank you for your voluntary statements this afternoon. You have been extremely helpful and we have completed our interrogation and we have no intention of recalling you.

Mr. Koch. Thank you, Mr. Chairman.

Chairman Inouye. We will stand in recess until 9:00 o'clock tomorrow morning.

[Whereupon, at 5:30 p.m., the Select Committees recessed, to reconvene at 9:00 a.m., Wednesday, June 24, 1987.]

# JOINT HEARINGS ON THE IRAN-CONTRA INVESTIGATION

## Testimony of Stanley Sporkin and Presentation by W. Neil Eggleston

WEDNESDAY, JUNE 24, 1987

SENATE SELECT COMMITTEE ON SECRET MILITARY
ASSISTANCE TO IRAN AND THE NICARAGUAN OPPOSITION
AND
HOUSE SELECT COMMITTEE TO INVESTIGATE
COVERT ARMS TRANSACTIONS WITH IRAN,
*Washington, DC.*

The Select Committees met, pursuant to call, at 9:05 a.m., in room 325, Russell Senate Office Building, Hon. Daniel K. Inouye (chairman of the Senate Select Committee) and Hon. Lee H. Hamilton (chairman of the House Select Committee) presiding.

Chairman INOUYE. The hearing will please come to order.

Our next witness is Judge Stanley Sporkin.

Judge Sporkin, will you please rise.

[Witness sworn.]

### TESTIMONY OF STANLEY SPORKIN

Chairman INOUYE. Mr. Woodcock.

Mr. WOODCOCK. Thank you, Mr. Chairman.

Judge Sporkin, good morning.

Mr. SPORKIN. Good morning, Mr. Woodcock.

Mr. WOODCOCK. Before we begin, I would like to state for the record, that you, Judge Sporkin, are here pursuant to the invitation of both chairmen of these committees. The committees appreciate your attendance here.

Mr. SPORKIN. Thank you.

Mr. WOODCOCK. Judge Sporkin, you have had a long tenure in public service; have you not?

Mr. SPORKIN. About 29½ years.

Mr. WOODCOCK. And you spent approximately 20 of those years with the SEC; is that right?

Mr. SPORKIN. That is correct.

Mr. WOODCOCK. When you left that organization, you were head of the Enforcement Division; is that correct?

Mr. SPORKIN. That is correct.

Mr. WOODCOCK. During that tenure, you also met William Casey; is that correct?

Mr. SPORKIN. That is correct.

Mr. WOODCOCK. He was at that time—1972 to 1973—Chairman of the SEC; is that right?

Mr. SPORKIN. That is right.

Mr. WOODCOCK. Now, when Mr. Casey became Chairman—or, excuse me, Director of Central Intelligence, he asked you to come over as general counsel; is that true?

Mr. SPORKIN. Yes, sir.

Mr. WOODCOCK. Was that in 1981?

Mr. SPORKIN. It was in 1981.

Mr. WOODCOCK. You accepted him—or accepted his invitation; is that right?

Mr. SPORKIN. That is right. I think I should mention that when Mr. Casey was the chairman of the SEC, he was an outstanding Chairman and that is the first time I met him. I didn't know him before that.

He provided a work environment which was really almost unique, where he encouraged people or inspired people; and while I think everybody that could possibly work for someone like that would be very grateful to do it one time, when the second chance came, I think you have to be doubly grateful.

And I must say the second time was probably even better than the first time. But he was a wonderful man. I want you to know that.

Mr. WOODCOCK. Recognizing that opportunity, you took him up on his offer to become general counsel of the CIA; is that right?

Mr. SPORKIN. Yes, sir.

Mr. WOODCOCK. You served in that position from 1981 to 1986?

Mr. SPORKIN. That is correct.

Mr. WOODCOCK. And from that position, you became a U.S. District Judge, a position you currently hold, is that true?

Mr. SPORKIN. That is correct.

Mr. WOODCOCK. Now, Judge Sporkin, when you first came to the CIA, you had no background in intelligence law or in the CIA itself, is that true?

Mr. SPORKIN. That is true.

Mr. WOODCOCK. You understood the CIA was a clandestine organization; is that right?

Mr. SPORKIN. Well, I—I don't know what I understood. I didn't know a whole lot about it. I understood it was a very important Agency of this country and I thought after 20 years in a job you get a little stale, and it is always time for a change.

Mr. WOODCOCK. As a person without a background in the intelligence community, did that color your approach to your job when you first took it on?

Mr. SPORKIN. Well, it meant that I had a learning experience. It meant that I had to—my approach had to be entirely different than my approach when I was with the SEC.

It meant that I knew that I had to earn the respect of the people at the Agency.

Mr. WOODCOCK. How did you go about doing that?

Mr. SPORKIN. Well, my—the way I did it was to go over there and to try to keep as low profile as possible, try to learn as much as I could.

It was my thinking that to allow the people to get confidence in me, to bring me matters and they would see that—how we accomplished them, and that over the period of time that confidence would—factor would increase.

We had a number of initial problems that we were able to successfully accomplish. We had an Executive order that was—that when I went over there, I was told it had already been taken care of and I would have no problems with it.

But what happened was that it had fallen completely apart. So I had to get into that and we were able to successfully come out with an Executive order.

I might add that not only the fact of my lack of experience in that field but the fact that the Agency had had four general counsels before me who were just extremely outstanding individuals—Larry Houston, John Warner, Tony Lapin, Dan Silver, so I was filling some rather big shoes.

I tell you, the first thing I did was to bring them—they are all alive. I think that is probably the only Agency that exists as old as the CIA that can bring back every one of its general counsels.

When I saw that, I brought them all back. I constituted them as an advisory committee to me, and I met with them 4 times a year.

That was another way of trying to work into the job.

Mr. Woodcock. You also refrained from projecting yourself into ongoing matters; is that correct?

Mr. Sporkin. Yes. I could see it and I realized that you don't try to insinuate yourself into matters, because people become suspicious and think that you might have some ulterior motive for some reason.

So I just stood back and—wait till they came to me.

Mr. Woodcock. OK.

Mr. Sporkin. I tell you, it became—sometimes the phone didn't ring.

Mr. Woodcock. But eventually the phone did ring, and when it did, you would perform a good job and thereby gain their confidence; is that correct?

Mr. Sporkin. I hoped that that was what would happen.

Mr. Woodcock. You also used a team approach in solving legal questions that were relegated to your office; is that right?

Mr. Sporkin. That was one of the problems that I always—well, there are several reasons why I did it that—we had very good lawyers there,who were excellent technicians. So I needed them.

I also like to get as many opinions as I possibly can. I think it is an extremely important way of dealing with a problem to bring it up, raise it, find out all the various responses to it and then make your decision.

The problem that that ran afoul with as you can realize in the intelligence community, you have what is known as compartmentalization. While that is a very important concept from the standpoint of maintaining secrecy, you do have a problem in getting different ideas.

But I, in any event, attempted to continue with the approach I had of bringing in the people that I believe needed to be brought in to deal with problems and to discuss them, consider them.

Mr. **Woodcock**. So the risk you saw with compartmentalization was you deprived yourself of some of the expertise you might otherwise have available, the benefit then was a greater likelihood of secrecy?

Mr. **Sporkin**. That is correct.

Mr. **Woodcock**. Judge Sporkin, let me direct your attention, if I may, to the events of November 25, 1985.

Do you recall a discussion with the then Deputy Director of Central Intelligence, John McMahon, with respect to a sensitive, ongoing matter?

Mr. **Sporkin**. I do.

Mr. **Woodcock**. Could you tell us what you recall about that?

Mr. **Sporkin**. On that date, the Deputy Director either phoned me or asked me to meet with him. He told me that there was an extremely sensitive matter in which the Agency was engaged and he requested that I review it.

And I said, fine, and he said I will have some operations people come over and brief you on the matter.

Mr. **Woodcock**. Did he advise you this was a matter to be closely held?

Mr. **Sporkin**. Yes. He advised me of that, or, at least, I had that feeling that it was to be extremely closely held. I mean almost to the point of where I almost felt that I had to work on it personally, I mean do everything personally, which I would not do, but that is what—that is the feeling I had.

I don't know whether he told me, but that is strictly the ambiance or the atmosphere that was created.

Mr. **Woodcock**. The degree of sensitivity you detected in the Deputy Director's request made this not an everyday occurrence; is that right?

Mr. **Sporkin**. It was not an everyday occurrence, and I think you have to realize when you are a lawyer for an organization, you cannot, unlike private practice, you cannot send a client away or you cannot send a matter away.

There is no other law firm down the street that will take it. So you have to take the good as well as with everything else that comes along.

So you can't duck problems. You have to deal with them.

Mr. **Woodcock**. After receiving this request from the Deputy Director, you understood that a couple of briefers would be over to give you an idea of what this operation was all about; is that right?

Mr. **Sporkin**. That is correct.

Mr. **Woodcock**. Did you then take steps within your department to bring people in to assist you?

Mr. **Sporkin**. Yes. As soon as I realized that this was going to happen, I called together my Deputy and two of my associates, told them that we were going to have this matter coming over. I told them that with respect to the briefing, that Mr. Dietel—who is my Deputy—and I would handle that, but that they should stand by and then after we were briefed, we would bring them in to determine what course of action to pursue.

Mr. **Woodcock**. Now, do you recall approximately what time of day these two briefers actually showed up?

Mr. **Sporkin**. Late in the afternoon.

Mr. **Woodcock**. Late in the afternoon, of November 25; is that right?

Mr. **Sporkin**. Right.

Mr. **Woodcock**. Where did you understand these people came from, what department within the CIA?

Mr. **Sporkin**. The Operations Directorate.

Mr. **Woodcock**. That is also known within the CIA as the DO; is that correct?

Mr. **Sporkin**. That is correct.

Mr. **Woodcock**. These people were from deep within the DO; in your opinion, is that right?

Mr. **Sporkin**. I think they were very deep. They were people I did not recognize or hadn't met before.

Mr. **Woodcock**. When these two men came, they came to your office; is that correct?

Mr. **Sporkin**. That is correct.

Mr. **Woodcock**. The General Counsel's offices are not physically located at Langley, VA; is that right?

Mr. **Sporkin**. Well, at that time we were in Tysons Corner, the offices themselves. I maintained an office which I didn't use at the headquarters, but I also had a very small office over in Tysons Corner where I found myself spending most of my time, because while some of the people at the CIA thought what we could do is we keep the General Counsel by himself in headquarters and send everybody else down to Tysons, I found out within about 2 days that that wouldn't work.

I can't operate by myself, and so I decided to move in with everybody else, and since they hadn't provided for me, I had to take a little sort of closet type of office over there to work with them.

Mr. **Woodcock**. Now where were you when the two briefers showed up?

Mr. **Sporkin**. In my office.

Mr. **Woodcock**. And your office is the small office?

Mr. **Sporkin**. In the small office in Tysons Corner.

Mr. **Woodcock**. Right. Now when these two men showed up, what happened?

Mr. **Sporkin**. They briefed me on the—on this operation that apparently the CIA had been involved in for a few days and told me what was happening. As I was listening to them, certain obvious thoughts occurred to me. I started to analyze what I saw where the problem areas that we had to deal with, and I had tentatively made up my mind on listening—I think as most lawyers do. You get a feel for something. And as you get a feel for something, you say this is going to be a tentative sort of approach that you wanted to check out.

As I was listening, it occurred to me that this kind of activity, I thought, should have a Finding by the President of the United States.

Mr. **Woodcock**. All right. Before we get to that matter, let me first establish, as this briefing occurs, who was present in the room.

Mr. **Sporkin**. The two gentlemen from the operations office and Mr. Dietel and myself.

Mr. **Woodcock**. That is Ed Dietel, the Deputy General Counsel?

Mr. **Sporkin**. That is correct.

Mr. WOODCOCK. You referred just a moment ago in your testimony to your conclusion that a Finding, you felt, would be in order based on the briefing these two men gave you. Would you take just a moment and explain for the record what a Finding is?

Mr. SPORKIN. A Finding is a determination by the President of the United States that a certain activity in a foreign country, which is undisclosed, is necessary for the—in the interest of national security. It is an item that the law recognizes and it is required under the old Hughes-Ryan Act.

It says that no appropriated funds can be expended with respect to certain activities—these included—without there being this Finding by the President, which states that the activity is in the national security interests of the nation.

Mr. WOODCOCK. Putting off for just a moment the substance of the briefing that you heard that day, let me turn further to your analytical process.

You determined that a Finding would be advisable. You also understood that the matter you were dealing with was highly sensitive; is that right?

Mr. SPORKIN. That is correct.

Mr. WOODCOCK. You also were faced, were you not, with the understanding that some of the activity that would be covered by the Finding had, in fact, already occurred?

Mr. SPORKIN. That is correct.

Mr. WOODCOCK. Approximately how long did this briefing last?

Mr. SPORKIN. I don't think much longer than about 20 minutes.

Mr. WOODCOCK. After these two individuals left, what did you then do?

Mr. SPORKIN. Called in the other two individuals who were in my office, who were waiting to come back, and we started to discuss the matter.

Mr. WOODCOCK. As a result of your discussion of the matter, did you come up with a draft version of a Finding?

Mr. SPORKIN. Yes. I would say to you that in the discussion that we had, I threw out my idea of a Finding, and I wanted to vet it, and I had—and there was some strong debate. I think there was a feeling by some that it wasn't required; that we were, of course, in the tail end of this activity.

Any event, after listening to the input, it was my determination that from a prudential—at least a prudential basis, that I wanted—I was going to recommend a Presidential Finding.

Mr. WOODCOCK. You then set about dictating a Finding, did you not?

Mr. SPORKIN. Yes. Yes, I think what happened was is I—as I can recollect—is that I dictated some language to my secretary. And then one of the gentlemen that were with me, one of the associate general counsel's, took that and put it in the form.

Mr. WOODCOCK. Now if I may, Judge, let me direct your attention to what has been marked as SS-1. Which is in your exhibit book.

Mr. SPORKIN. Yes, sir.

Mr. WOODCOCK. Do you recall seeing that document before?

Mr. SPORKIN. Oh, I am sure I saw it before.

Mr. **Woodcock**. Let me state for the record, Judge Sporkin, that this is a document that has been provided to the committee by the Central Intelligence Agency.

Mr. **Sporkin**. Yes.

Mr. **Woodcock**. It is the shorthand notes of your secretary.

Mr. **Sporkin**. Right.

Mr. **Woodcock**. And I believe you have had an opportunity to examine this recently; is that true?

Mr. **Sporkin**. I sure did. You gave me that opportunity. I am grateful. Yes. There is no question that this is what was dictated that night.

Mr. **Woodcock**. Judge Sporkin, I am going to put off for just a moment a discussion of the substance of this Finding.

Mr. **Sporkin**. All right.

Mr. **Woodcock**. And direct your attention to the events that immediately followed your discussion with your counsel. You have already testified that you, after you dictated the draft, you asked one of your legal advisers to go off and rework the draft; is that right?

Mr. **Sporkin**. Yes. Put it in the—to really put it in the form. If you notice, it is not a whole lot different from what has been dictated, the final version.

Mr. **Woodcock**. Correct. We will get to that in a moment. You wanted this individual to go off and put it in a more formal form; is that correct?

Mr. **Sporkin**. I think we are getting just a little bit ahead. You have to understand that actually I could have merely—I think my task was such that I could have merely said, yes, John—who is the Deputy Director—I considered it and this is what you have to do. It is not the way we practice law there. I knew that you always have to anticipate what the next question would be, and the next question would say, OK, prepare it.

So to avoid all that, I said this is going to be the recommendation folks and, what we need to do is assuming that our recommendation is going to be accepted, let us take the next step and prepare a draft. So that when I meet with the Deputy Director, I will say this is the recommendation. These are the papers to implement that recommendation.

Mr. **Woodcock**. Let me back up just a moment before we proceed too far. Redirecting your attention to SS-1, is the information that is contained in that exhibit based on the briefing that you received from the two men from the DO?

Mr. **Sporkin**. I believe it is. There are only two sources for this information, unless I became a fiction writer. And that is from the people that briefed me and from Mr. McMahon. My conversation with the deputy director was so short that I don't believe he gave me most of this information. So I believe that this had to come from the people from the Directorate.

Mr. **Woodcock**. You, as I noted earlier, and your testimony concurs, you tasked one of your lawyers to go off and put this in formal form; is that correct?

Mr. **Sporkin**. That is correct.

Mr. **Woodcock**. And he did so; is that right?

Mr. **Sporkin**. That is correct.

Mr. **Woodcock**. He returned later on that evening with a draft in formal form; is that correct?

Mr. **Sporkin**. That is so.

Mr. **Woodcock**. Did you advise Deputy Director McMahon of your conclusion with respect to the briefing?

Mr. **Sporkin**. Yes. I think I called him that night and told him that—what I had in mind. I told him that I would see him the next morning.

Mr. **Woodcock**. Did you see him the next morning?

Mr. **Sporkin**. I did.

Mr. **Woodcock**. Where did you see him?

Mr. **Sporkin**. At headquarters.

Mr. **Woodcock**. Do you recall whether anyone else was present?

Mr. **Sporkin**. I think it was just the Deputy Director and myself.

Mr. **Woodcock**. When you saw him, did you bring with you the Finding?

Mr. **Sporkin**. I did.

Mr. **Woodcock**. And did you go over the Finding with him?

Mr. **Sporkin**. I think we discussed it.

Mr. **Woodcock**. Now let me direct your attention, if I may, to what has been marked as SS no. 2. That is in your exhibit book.

Mr. **Sporkin**. Yes.

Mr. **Woodcock**. That is a letter addressed to Bill, meaning Bill Casey, and it is from yourself; is that correct?

Mr. **Sporkin**. That is correct.

Mr. **Woodcock**. That is your signature on that exhibit; is that correct?

Mr. **Sporkin**. That is my initials.

Mr. **Woodcock**. Those are your initials.

Let me back up just a moment before we go on further here. Returning you to the meeting you had with Deputy Director McMahon, do you recall what his reaction was when you told him that you believed a Finding was in order?

Mr. **Sporkin**. Completely supportive.

Mr. **Woodcock**. Now when you approached Mr. McMahon with this information, you realized that this was a matter of some weight; is that correct?

Mr. **Sporkin**. Oh, yes.

Mr. **Woodcock**. In other words, a Finding requires the personal attention of the President of the United States; is that right?

Mr. **Sporkin**. It was stiff legal advice, believe me, because I don't know how many other times I came up with a recommendation that says before you can do anything or continue to do something, you had better go to the President of the United States and get authority to do it. So it was stiff legal advice. It is not the everyday legal advice that I gave.

Mr. **Woodcock**. It was not advice you gave lightly either; is that correct?

Mr. **Sporkin**. That is correct.

Mr. **Woodcock**. Let me direct your attention, if I may, Judge Sporkin, to what has been marked as SS no. 3.

Mr. **Sporkin**. Yes, sir.

Mr. **Woodcock**. SS no. 3 is a memorandum, cover memorandum from William Casey to then Vice Admiral John M. Poindexter with respect to the Presidential Finding on the Middle East.

Mr. **Sporkin**. Right.

Mr. **Woodcock**. I will state for the record that that cover memorandum conveyed the Finding that you had shown to Director McMahon earlier, on the day of November 26.

Now, Judge Sporkin, if I may, let me direct your attention to what has been marked as SS no. 4. That is the Finding which was drafted into formal form by your assistant on November 25; is that correct?

Mr. **Sporkin**. That is correct.

Mr. **Woodcock**. Let me go over some of the provisions of this document with you. This document contains a provision for not notifying Congress; is that correct?

Mr. **Sporkin**. That is correct.

Mr. **Woodcock**. And do you recall how it is that that provision came into Finding?

Mr. **Sporkin**. Yes. If I may, let me explain to you what happened here.

As I told you, as a lawyer, when you are sizing up a problem, I saw there were three major areas I had to deal with. One was to make sure that this project was fully authorized from the top, from the highest authority in the land. The second problem I had to deal with was how to retain the security of the project so that if there was viable—it would be able to be accomplished. And the third area, which we will get into, is how do we deal with that very small window of 48 hours or so in which the Agency had been involved in activity. And I had to deal with those three.

I dealt with the number one by saying we do it through a Finding, because that goes to the President of the United States. I dealt with the secrecy and the security end of it by utilizing a provision that I don't recall; it might have been used one other time in my tenure, but one that is very rarely used and only in extreme circumstances, and that was in the nonnotification to the Congress. And the third area, to take care of that 48-hour window, was to make sure that this activity had been authorized and that the President was willing to ratify it so that my people or the people of the Agency knew that they were operating under Presidential authority.

So those are the three issues and that's the way I dealt with it.

Mr. **Woodcock**. Your analysis of the three issues has anticipated at least one or two lines of questioning I was about to throw out. One is that the no-notice provision is not something again that you undertook lightly; is that correct?

Mr. **Sporkin**. Absolutely.

Mr. **Woodcock**. And that underscores again the sensitivity of the project on which you were working; is that right?

Mr. **Sporkin**. Right. And by the way, this is not something that—this is me, this is my decision that I made. So anybody that rises or falls on the decision, it is me. And I want that to be clear.

Mr. **Woodcock**. Now, the next matter that you brought up is that this Finding contains in it a ratification provision directed at prior actions of Agency or government officials; is that right?

Mr. SPORKIN. Right.

Mr. WOODCOCK. Now, Judge Sporkin, you, I know, understand well that the Hughes-Ryan concept of a Finding is based on a desire to ensure that a President approve a covert action before it actually occurs; is that right?

Mr. SPORKIN. That is correct.

Mr. WOODCOCK. The concept of ratifying an action or covert action after it has occurred is inconsistent with that rationale; is that right?

Mr. SPORKIN. Well, yes. You know, I'm——

Mr. WOODCOCK. Well, it is as a matter of principle.

Mr. SPORKIN. I think that it is important, obviously, in a perfect world, is to have the President authorize it, everything in writing beforehand.

Mr. WOODCOCK. Correct. And that is the intent of the Hughes-Ryan Act, and the concept of ratification is inconsistent with that intent; is that right?

Mr. SPORKIN. The concept of ratification, I would agree with you, if it were abused. I don't believe that this was, in this case, was abusive, and I believe it was a correct thing to do.

Mr. WOODCOCK. I understand, but I want to direct your attention ultimately to the events of November 25. Now I'm speaking in general terms.

In general terms, the concept of ratifying an action after it occurs is inconsistent with the concept of a Finding?

Mr. SPORKIN. I'm not going to debate that with you.

Mr. WOODCOCK. You would not, in your role as general counsel to the CIA, have counseled the CIA to have regularly engaged in the practice of committing covert actions and then seeking ratification through the Finding process; is that right?

Mr. SPORKIN. That is absolutely correct, and this is, in my recollection, probably the first and only time, and probably the last time it's ever going to be done, because if I realized this would get me my 15 minutes in the sun, I think I would have given up on that opportunity.

Mr. WOODCOCK. Now, bringing you back to the specific problem that you faced on November 25, even though you would not counsel the CIA to regularly indulge this practice, you were faced as the legal guardian of the rights of the CIA with a situation which a covert action had in fact occurred and no Finding had been issued for it; is that right?

Mr. SPORKIN. No, that isn't technically correct, Mr. Woodcock. The point was that I didn't even—well, there might be some lawyers that are a little more deliberate than I am and probably when they determine they are going to go from point A to point B, sit down and analyze it and sometimes they can analyze it for weeks and months. Sometimes, however, you know, if you know you are going to go to point B, you cut through all that and say, I want to be at point B.

So I did not fly-speck this and analyze it in the minute detail that some others might have done, and I wasn't really concerned whether this was or not a covert action. What I was concerned about was the fact that we were engaged in a very high-profile kind of activity that I believed we had to get the President of the—

we had to make sure that the President of the United States was truly authorizing this activity.

Because look what we were doing: This was arms—were going to Iran. I know that. I mean, I knew that that was a problem. And therefore, I wanted to make sure it went to the top and I didn't sit down there and determine is this technically or not technically a covert action. It is not the way I practice law.

Mr. WOODCOCK. You were faced with events that had already occurred; is that correct?

Mr. SPORKIN. Yes. Well——

Mr. WOODCOCK. I want to focus the questioning here on your ratification section alone, and the justification for the ratification section, in your mind, as a prudent lawyer, was that events had occurred; is that right?

Mr. SPORKIN. That is absolutely correct.

Mr. WOODCOCK. If events had not already occurred, there would be no need for a ratification section; correct?

Mr. SPORKIN. That is correct.

Mr. WOODCOCK. All right, well that is really what I'm driving at. You were faced with a situation in which events had already occurred and you believed, or on the briefing that you had received, that a Finding was advisable; is that correct?

Mr. SPORKIN. That is correct.

Mr. WOODCOCK. And part of your concern in analyzing this problem was that those persons who had participated in the events that had already occurred would not be cloaked in the Finding and the Presidential authority that comes with it without the ratification provision; is that right?

Mr. SPORKIN. That—that is a possibility. The point that I wanted to make sure is, I wanted to hammer it home. You understand—in other words, I wanted—it may well be they were protected by this Finding because we were talking about, what, 48 hours of activity, transportation and communications—we were the tail-end of the process. We only got brought in because they could find nobody else to do it. We were bailing out a project.

Mr. WOODCOCK. That is you, the general counsel's office?

Mr. SPORKIN. Right. But I didn't want to sit down and say, can we do it, or we can't do it in that respect. What I wanted to say is, I wanted to nail it home and so that the President would say, "Yes, I confirm that this was authorized activity."

Mr. WOODCOCK. Right. And when you say that, you are referring both to prospective activity and activity that has already occurred; is that correct?

Mr. SPORKIN. Not by the ratification. Not by the conduct——

Mr. WOODCOCK. I understand. The Finding as a whole addresses prospective activity?

Mr. SPORKIN. Oh, yes.

Mr. WOODCOCK. And activity that has already occurred?

Mr. SPORKIN. That is correct.

Mr. WOODCOCK. And as a lawyer, you were concerned, were you not, that the actions that occurred would be cloaked in Presidential authority as the actions that were to occur would also be cloaked in Presidential authority; is that right?

Mr. SPORKIN. That is right.

Mr. **Woodcock**. Now, if I may, Judge Sporkin, let me direct your attention to the—again to SS-4. If you examine the language of the body of the Finding closely, some terms bear further scrutiny.

Mr. **Sporkin**. Yes.

Mr. **Woodcock**. There is a term, for example, in there, certain foreign materiel and munitions. Do you see that term?

Mr. **Sporkin**. Yes, sir.

Mr. **Woodcock**. Do you recall that term being imported into the Finding?

Mr. **Sporkin**. Do I recall it being——

Mr. **Woodcock**. Do you recall that term being written into the Finding?

Mr. **Sporkin**. It's there.

Mr. **Woodcock**. Let me ask the question differently. Are you familiar with the term?

Mr. **Sporkin**. Yes.

Mr. **Woodcock**. As it appears in the Finding?

Mr. **Sporkin**. Yes.

Mr. **Woodcock**. What does it mean?

Mr. **Sporkin**. It means, in my view, all forms of weapons, materiel is—I guess when I was new there, I thought they spelled it wrong, but then when they told me that is what it meant, I realized that was a good word to put in to encompass all forms of weaponry.

Mr. **Woodcock**. So that munitions and materiel together both refer to armaments; is that correct?

Mr. **Sporkin**. That is correct, absolutely.

Mr. **Woodcock**. Now, that also has the modifier "foreign" in front of it. What is the function served by that word?

Mr. **Sporkin**. Well, obviously the briefing must have included the fact that some of these materiels would have been coming from outside the United States.

Mr. **Woodcock**. That is from the military stocks of another country?

Mr. **Sporkin**. That is probably so. Well, it says foreign—yes. But I think you're right on that.

Mr. **Woodcock**. Did you have any understanding as to what country that might be?

Mr. **Sporkin**. As I look back, I think obviously that the only country there was Israel.

Mr. **Woodcock**. Now, there was also a reference in the body of the Finding to private parties; is that right?

Mr. **Sporkin**. That's correct.

Mr. **Woodcock**. Do you have an understanding as to what purpose that term served in the Finding?

Mr. **Sporkin**. Apparently I must have been told there were certain private parties involved in this operation that were facilitating it and that is why it's in there.

Mr. **Woodcock**. And when you say "private parties," private citizens?

Mr. **Sporkin**. Could—well, citizens—of some country or our country?

Mr. **Woodcock**. Do you recollect?

Mr. **Sporkin**. No, I don't.

**Mr. Woodcock.** Now, there's also a reference in this Finding to obtaining the release of Americans held hostage in the Middle East.

**Mr. Sporkin.** Yes, sir.

Now, the inclusion of that reference is the basis of the rationale for the Finding to begin with, is that right?

**Mr. Sporkin.** In my view that's exactly what it was, yes, sir.

**Mr. Woodcock.** In other words, if you excised the reference to hostages from the Finding there is no alternative rationale, is that correct?

**Mr. Sporkin.** That is the way I perceived it, you are absolutely right.

**Mr. Woodcock.** Now, your having framed the Finding in that kind of a way is based again on information that you would have received either from Mr. McMahon or from the two briefers from the DO, is that correct?

**Mr. Sporkin.** That is correct.

**Mr. Woodcock.** Now, the documents that you have reviewed today all the way up to SS-4 indicate that this Finding which you brought to the Agency on November 26, went to Mr. McMahon, Mr. Casey, Mr. Poindexter. No one came back to you, did they, and complained about the draft?

**Mr. Sporkin.** Not that I know of.

**Mr. Woodcock.** You were not called upon to alter the draft, is that correct?

**Mr. Sporkin.** That is correct.

**Mr. Woodcock.** You were not called upon to add additional rationale, is that correct?

**Mr. Sporkin.** Not at that time.

**Mr. Woodcock.** You were never asked to alter this Finding, is that right?

**Mr. Sporkin.** No, that is correct, yes.

**Mr. Woodcock.** Now, Judge Sporkin, let me direct your attention, if I may, to December 9, 1985. On that day you had a meeting with Lt. Col. Oliver North, is that right?

**Mr. Sporkin.** That's what the records indicate.

**Mr. Woodcock.** Now, when you went to that meeting you were not the only one that was scheduled to arrive, is that correct?

**Mr. Sporkin.** My recollection is that the Deputy Director told me, asked me to join him at a meeting with Mr. North.

**Mr. Woodcock.** And that again is Mr. McMahon asking you to join him in a meeting with Mr. North?

**Mr. Sporkin.** That is correct.

**Mr. Woodcock.** You went to the meeting but Mr. McMahon didn't arrive, is that correct?

**Mr. Sporkin.** That is correct. Well, I think he might have told me he wasn't coming. I mean at some point, he may have said I can't make it, you go ahead and run it, not run it, attend it.

**Mr. Woodcock.** As a matter of fact, he did not arrive, is that correct?

**Mr. Sporkin.** That is correct.

**Mr. Woodcock.** Nevertheless you and Lt. Col. North did have a meeting on that day, is that right?

**Mr. Sporkin.** That is correct.

**Mr. Woodcock.** The subject of the meeting was the Iran initiative?

**Mr. Sporkin.** I'm sure it was.

**Mr. Woodcock.** Now, do you recall at this point what Mr. McMahon's frame of mind was with respect to the initiative?

**Mr. Sporkin.** What I can recall is I think, I gathered that the Deputy Director would have preferred that the Agency's role be extremely limited if at all.

**Mr. Woodcock.** Was this position of Mr. McMahon understood by Lt. Col. North?

**Mr. Sporkin.** Yes. As a matter of fact, I might even have learned it from Mr. North.

**Mr. Woodcock.** Do you recall whether Lt. Col. North had any reaction to it himself?

**Mr. Sporkin.** He would have been just as happy to have the CIA out of it as would the Deputy Director. I just don't think that Colonel North wanted to do any more business I think with Mr. McMahon as Mr. McMahon wanted to do business with Mr. North. So I think it was agreed that, or at least discussed that if there is some way to find a way to have the CIA take a very minor role or take no role at all.

**Mr. Woodcock.** Let me parse your answer if I may. Your answer suggests perhaps two things are going on here. One is that Mr. North and Mr. McMahon did not together form a mutual admiration society, is that right?

**Mr. Sporkin.** I can't really say that. I've told you what——

**Mr. Woodcock.** There was some distance there, is that right?

**Mr. Sporkin.** Yes, I think—well, I think that McMahon, that the Deputy Director—if this were going to be a CIA covert operation then the CIA ought to handle it and I don't think he wanted—and again I'm doing things that I would tell people not to do, I'm trying to bring things together for you, and I think that that was his view, that he did not want to have the Agency involved unless we were going to run the whole operation and I think North, I don't think wanted to become overly involved with Mr. McMahon. They are two very strong people, and I don't think that the both of them together can be running the same operation.

**Mr. Woodcock.** That brings up the second point, and that is seeking clarification on this, did you have an understanding as to whether Mr. McMahon supported this Iran Arms Initiative at this point?

**Mr. Sporkin.** That's hard for me to say. He didn't tell me that he did not at any time. Indeed, he didn't have to even bring me into this matter if he were that against it because all he had to do was to say we are not going to do it, it's over. So I really can't say that he was, that was his view, because he didn't need me if that were his view.

**Mr. Woodcock.** I'm trying to retrace your testimony. Let me see if I can understand this. Initially I understood from your testimony that you understood that Mr. McMahon did not want the CIA to participate in this if that was possible. Is that right?

**Mr. Sporkin.** Well, again as I said it didn't come from McMahon, I think it came out of that meeting where I think North told me that he would just—is there a way that this can be done without the CIA being involved? And I think he indicated, and again I can't get any specific language, but I-think there was a general tenor that he said this would have been keeping with the Deputy Director's wishes.

Mr. **Woodcock**. And North was willing to accommodate him on that, is that correct?

Mr. **Sporkin**. That is correct.

Mr. **Woodcock**. Let me direct your attention if I may to what has been marked as SS no. 5, and particularly to the third page of the first document present there.

Mr. **Sporkin**. Yes, sir.

Mr. **Woodcock**. Now, Judge Sporkin, you will recall we examined this document in the recent past, is that correct?

Mr. **Sporkin**. Only in the recent past.

Mr. **Woodcock**. That is correct.

Mr. **Sporkin**. I did not see this document at the time.

Mr. **Woodcock**. And you made it clear that you had not seen it at the time, is that right?

Mr. **Sporkin**. That is correct.

Mr. **Woodcock**. Now, with that understanding I would like to read to you a portion of this document and just ask for a brief comment on it before we move on to the next topic.

Mr. **Sporkin**. Sure.

Mr. **Woodcock**. Now, if you would direct your attention to the final paragraph on page 3 that reads as follows:

> There is a fifth option which has not yet been discussed. We could, with an appropriate covert action Finding, commence deliveries ourselves, using Secord as our conduit to control Ghorbanifar and delivery operations. This proposal has considerable merit in that we will reduce our vulnerabilities in the replenishment of Israeli stocks and can provide items like the Improved HAWK (PIP II) which the Iranian Air Force wants and the Israelis do not have.

Now, that document—excuse me, that paragraph describes, does it not, a mechanism by which arms could be transferred directly through Mr. Secord, is that right?

Mr. **Sporkin**. That's what that reads. That's how that reads.

Mr. **Woodcock**. Now, do you recall that from December 9 on you were engaged in an effort to examine the various ways in which these arms transfers might occur? Is that true?

Mr. **Sporkin**. At some point, your are right. The only thing I want to mention to you, I think just to put this a little context in balance is remember I had a lot of other things I was engaged in at that time and I was doing at that time, and so I only mention that because when I was being—the time I was spending on this project, I wasn't spending a hundred percent of my time. I was spending a very small portion and only with respect to questions that were being raised. Somebody would say to me go to a meeting, I would go to a meeting. Although I think in this situation is—that I did get my task force out, and to survey the entire problem.

As you will see, from the documents I did want to get completely briefed as to what was the best way to do this from the legal standpoint.

Mr. **Woodcock**. Before we go too far into the tail end of 1985, let me direct your attention back for just a moment to the exhibit SS-

4, which is the Finding, the November Finding that your staff prepared for you and that you passed on to Mr. McMahon.

Mr. SPORKIN. Right.

Mr. WOODCOCK. This Finding provides that the foreign materiel and munitions which we discussed earlier were to be provided to the Government of Iran; is that correct?

Mr. SPORKIN. That is correct.

Mr. WOODCOCK. And that is the Government of Iran as opposed to, say, moderates within the Government of Iran or nongovernmental figures within Iran, is that correct?

Mr. SPORKIN. Well, I guess I went right through to the heart of it and said the Government of Iran. Even using the language you are using eventually it is going to get to the Government of Iran.

Mr. WOODCOCK. Correct. Well, you understood—you didn't provide for Iranian intermediaries in here. These arms are going to the Government of Iran. That's well understood, is that correct?

Mr. SPORKIN. This is a Finding that was designed to get to what I believed was the heart of the problem. I don't think I want to again, you are going to see me accepting the responsibility where I'm responsible, and I've always done that and I'm going to continue to do that. This is Sporkin's interpretation of what this was all about.

Mr. WOODCOCK. And it was your interpretation based upon the information you had been given, is that right?

Mr. SPORKIN. That is correct.

Mr. WOODCOCK. No one ever came back to you and said you were wrong, is that right?

Mr. SPORKIN. Nobody said I was wrong and that's my interpretation of what it was. But nobody said this is what it was. This is the way I put it together.

Mr. WOODCOCK. OK.

Now, let me ask you to step back a day further in time, back to November 25, do you recall during the briefing that you received from the DO representatives whether they used any specific references to any particular types of weapons and in particular, what I'm asking here is do you recall them using the term "missiles?"

Mr. SPORKIN. I would think they did. You are asking me to recall today, I can't. But I would say the likelihood is they told me they were missiles, they might even used the words "HAWK" or "TOWs." You have got to realize that when I get into a job at that age I've left all my boyhood dreams aside and these things didn't mean a whole lot to me. I was trying to be as clinical as possible. If I had realized it became important to find out exactly what we are talking about I would have paid more attention. But I think you are probably right, they probably told us exactly what was involved, and I don't think we were talking about anything other than, I mean missiles, and I'm sure they even mentioned what they were, but I can't recall.

Mr. WOODCOCK. That's your best judgment though.

Mr. SPORKIN. That's right.

Mr. WOODCOCK. Now, Judge Sporkin, let me direct your attention to January 2, 1986. Do you recall on that day receiving or engaging in a telephone conversation with Lt. Col. North?

Mr. SPORKIN. Yes.

Mr. **Woodcock**. What did he call about?

Mr. **Sporkin**. He called me and explained to me that he was considering an expanded Finding, and he mentioned to me what the expanded Finding ought to include.

Mr. **Woodcock**. Now when you say "expanded" you mean more, or broader than the initial Finding, the Finding that we have just discussed of November 25-26, is that right?

Mr. **Sporkin**. That is correct.

Mr. **Woodcock**. Do you recall whether he specifically referred to the earlier Finding or not in his conversation?

Mr. **Sporkin**. The—no, I can't recall whether he referred to the earlier Finding, but I obviously—I assumed that we weren't going to repeat the earlier Finding, that this was something to be in addition, it was going to be a new Finding. I think I used the word "expanded" but he indicated it should be a new Finding to cover certain other activities, that there is a broader concept to the relationship that was being considered with Iran.

Mr. **Woodcock**. If you can recall at this point, are you assuming the earlier Finding has been signed?

Mr. **Sporkin**. Either I'm assuming or I was told. Again I can't recall being told that, but I assumed that it had been signed. And the reason I assumed it is the Deputy Director is clearly supportive, enthusiastic about it and if there was a problem he would have told me.

Mr. **Woodcock**. The Deputy Director was enthusiastic about the concept of the Finding, is that right?

Mr. **Sporkin**. That's correct.

Mr. **Woodcock**. But you are not testifying that he was enthusiastic about the initiative itself?

Mr. **Sporkin**. No, no, no, no. He was very supportive of my judgment that we ought to have a Finding. Indeed I saw somewhere he has testified that it was his idea to have a Finding and that's his—so I think that's consistent with my point that he was in favor of a Finding.

Mr. **Woodcock**. Now, Judge Sporkin, returning to your conversation of January 2d with Lt. Col. North, he imparts to you by telephone his desire for an expanded Finding, presumably the subject is Iran, is that correct?

Mr. **Sporkin**. That is correct.

Mr. **Woodcock**. And he gives you information to support that Finding over the phone, is that right?

Mr. **Sporkin**. That is correct.

Mr. **Woodcock**. Now, what do you do after receiving this information?

Mr. **Sporkin**. Well, I called in two of my, one of my lawyers I guess and he brought in somebody else, and I explained to him what, I tasked them with the task of drafting this new Finding.

Mr. **Woodcock**. Did they act on your instructions?

Mr. **Sporkin**. They did come back with a draft, yes.

Mr. **Woodcock**. Let me direct your attention, if I may, to what has been marked as SS exhibit no. 6.

Mr. **Sporkin**. Yes.

Mr. **Woodcock**. You have had an opportunity to look at exhibit no. 6 in the recent past, have you not?

Mr. SPORKIN. And at the time.

Mr. WOODCOCK. And that is the Finding that they returned to you with on January 2d, is that right?

Mr. SPORKIN. I believe it is.

Mr. WOODCOCK. There is no reference in that draft to hostages, is that correct?

Mr. SPORKIN. That is correct.

Mr. WOODCOCK. That contains the broader purposes that you understood Lt. Col. North wished to place into this Finding, is that right?

Mr. SPORKIN. That is correct.

Mr. WOODCOCK. Now everything that is in exhibit no. 6 is based on information that you received from Lt. Col. North, is that right?

Mr. SPORKIN. I believe so. Again, I don't know how much I might have interpreted it, but I believe that has to be factual. I believe that is what I believed I was being told. You know, it is unfair because. Let me go back a second. There were some things that were put in here that he did not tell me. For example——

Mr. WOODCOCK. If you would identify them, please.

Mr. SPORKIN. Well, for example, "Protect and support these operations by conducting a program of deception, unilaterally and through third countries, which may include the use of all forms of propaganda."

I am sure that Colonel North didn't tell me that. I think what happened was somebody had gotten the idea that is what you put in Findings. If you notice, when I redrafted, that gets cut out.

Mr. WOODCOCK. We will get to that.

Mr. SPORKIN. What I am trying to be is being fair as I possibly can.

Mr. WOODCOCK. That is what we want.

Mr. SPORKIN. I have taken an 18-month course in fairness.

Mr. WOODCOCK. Do you see anything else in there you feel did not come from Lt. Col. North?

Mr. SPORKIN. I think the critical elements in it are North's. It has to be, but I can't give him all the language. That is something I was—you know writing up.

Mr. WOODCOCK. Now, this exhibit, this Finding, draft Finding, provides for the—for notification to Congress, is that right?

Mr. SPORKIN. Yes, it does.

Mr. WOODCOCK. Now——

Mr. SPORKIN. That again was something that we had put in ourselves.

Mr. WOODCOCK. That is, we being—your assistants in the Office of the General Counsel?

Mr. SPORKIN. That is correct.

Mr. WOODCOCK. Now, when you received this Finding—that is exhibit no. SS-6—from your staff, you then worked it over yourself, did you not?

Mr. SPORKIN. Oh yes, that is correct.

Mr. WOODCOCK. Let me turn your attention briefly to SS exhibit no. 7.

Mr. SPORKIN. What is seven?

Yes.

Mr. **Woodcock**. That is a document you have also seen in the recent past, is that correct?

Mr. **Sporkin**. Oh, sure. Yes.

Mr. **Woodcock**. That indicates that you hand carried a Finding down to Lt. Col. North on January 3, 1986, is that right?

Mr. **Sporkin**. That does say that, yes, sir.

Mr. **Woodcock**. Is that consistent with your recollection?

Mr. **Sporkin**. Well, you were extremely helpful in—there was a—there is a problem here, because I believe I did carry one down when I met with him that evening.

Mr. **Woodcock**. The evening of January 3?

Mr. **Sporkin**. But I also believe that one was sent down to him earlier, because when I meet with him that evening, he has a redraft of this—I believe he has a redraft of the Finding we sent down. So I think that is the only way that I can explain it and I thank you for that explanation, which I thought was pretty ingenious on your part, to realize that is what happened. But, I think that is what happened.

Mr. **Woodcock**. That is my best guess.

Mr. **Sporkin**. Yes.

Mr. **Woodcock**. Judge, if we could direct your attention to what has been marked as SS exhibit no. 8. This is the Finding that you created from the draft that we have marked as SS no. 6, is that correct?

Mr. **Sporkin**. That is correct.

Mr. **Woodcock**. That has—that differs from SS no. 6 in several significant respects. And I would like to spend a moment, if I may, covering those areas with you?

Mr. **Sporkin**. Right. Right.

Mr. **Woodcock**. First, the draft contains an alternative notice provision to Congress?

Mr. **Sporkin**. Yes.

Mr. **Woodcock**. It provides at one point for notice to Congress and at another point, for no notice to Congress. How did that come to be in the Finding?

Mr. **Sporkin**. Well, you have to realize that I envisioned my role at this point strictly as assisting, in attempting to prepare a draft Finding. That was the request made of me. And at this point, it seemed to me that these—this decision is going to have to be made by the decisionmaker. It is not going to be made by me. And, therefore, I wanted to give this option to that decisionmaker who I assumed would eventually be the President of the United States, that he had to make the decision as to whether he wanted to give notice or whether he didn't.

So we put it forth in my view—we put it forth this way so he would make that decision.

Mr. **Woodcock**. This draft Finding also contains a reference to Iranian elements?

Mr. **Sporkin**. Yes.

Mr. **Woodcock**. Do you understand what that term means and what purpose it serves in the Finding?

Mr. **Sporkin**. Well, again, the only thing I can think it means is people within Iran who were—I would think governmental people, or people who—with influence in Iran.

Mr. WOODCOCK. There also is a reference in the Finding to selected foreign liaison services.

Mr. SPORKIN. Right.

Mr. WOODCOCK. Do you have a recollection as to what that means?

Mr. SPORKIN. Well, did we have that in the original?

Mr. WOODCOCK. In the SS-6?

Mr. SPORKIN. Yes.

Mr. WOODCOCK. The SS-6 did refer to foreign liaison services.

Mr. SPORKIN. The only—I guess the only country we are considering at that time would have been Israel. I don't know if we had—we didn't have anything with Iran. So I think it would have had to have been Israel.

Mr. WOODCOCK. Would that also—that is the foreign liaison service of the Government of Israel?

Mr. SPORKIN. Again, I am trying to piece this together.

Mr. WOODCOCK. That is your best judgment?

Mr. SPORKIN. That would be my best judgment.

Mr. WOODCOCK. The term third countries, is that again a reference to Israel?

Mr. SPORKIN. Probably.

Mr. WOODCOCK. There also is a reference in here that one of the purposes of the Finding is to obtain from the Government of Iran, or elements within Iran, "significant intelligence not otherwise obtainable to determine the Iranian Government's intentions with respect to its neighbors and with respect to terrorist acts."

Can you tell us the origin of that provision?

Mr. SPORKIN. I believe I put that in.

Mr. WOODCOCK. How did that come about?

Mr. SPORKIN. Well, I knew at that time that we had a great deal of difficulty in penetrating Iran. I thought that if we were able to accomplish this objective, that would be something that would naturally flow. And this was later confirmed. This was later confirmed.

Mr. WOODCOCK. When you say confirmed, confirmed by whom?

Mr. SPORKIN. Well I think—well, I spoke to Mr. North and he confirmed that, that that was clearly a—something that would be obtained from this activity.

Mr. WOODCOCK. Now, there is no reference in this draft Finding to American hostages, is that correct?

Mr. SPORKIN. That is correct.

Mr. WOODCOCK. That is consistent with the information that you received from Lt. Col. North?

Mr. SPORKIN. Yes.

Mr. WOODCOCK. On January 2d, is that right?

Mr. SPORKIN. Well, it is—again, it could be my mindset at that time that I thought that that had already been part of a Finding.

Mr. WOODCOCK. Also, directing your attention to exhibit no. SS-8, which is your draft of the Finding, there is a reference in there for the provision of arms to Iran on the condition that these materials be limited in their use essentially to the Iran-Iraq conflict, is that correct?

Mr. SPORKIN. That is correct.

Mr. **Woodcock**. Was that consistent with your understanding from Mr. North or from Lt. Col. North, that the arms that were the subject of this Finding were to be used in the Iran-Iraqi conflict?

Mr. **Sporkin**. Well, I think it is consistent, but I also think that in my drafting, you have to limit how they are going to be used. We are not going to permit them to use this for any purpose and if you read the next sentence, that again is something that I put in. I wanted to make sure that this is going to be as narrow as it possibly could be.

Mr. **Woodcock**. It is understood at the time, I would assume, that Iran and Iraq have been at war for some time, is that right?

Mr. **Sporkin**. Oh, I knew that.

Mr. **Woodcock**. And when you provide materiel, war materiel to a country that is at war, presumably they are going to employ those materiel in the war?

Mr. **Sporkin**. Yes. I am not quarreling with that.

Mr. **Woodcock**. It is clearly understood in the Finding that materiel is going to be used in the Iran-Iraq conflict, is that right?

Mr. **Sporkin**. Oh, yes! I think that was clear. The point I wanted to make sure is that this was not going to be used for any other purpose.

Mr. **Woodcock**. So you built a limiting proviso in, is that right?

Mr. **Sporkin**. That is correct.

Mr. **Woodcock**. If I have already asked this question, forgive me, but there is no reference to hostages in this Finding either, is that right?

Mr. **Sporkin**. That is correct.

Mr. **Woodcock**. In the course of your endeavors on January 3, did you become concerned as to whether Director Casey was fully aware of what was going on here?

Mr. **Sporkin**. All right, yes. That is a good point.

As I mentioned that I received the call from Mr. North and I thought that what I was providing him was with what I considered to be a drafting assistance. At that time at the Agency, the three highest officials that I understood knew about this were the Director, the Deputy Director, and myself.

The Deputy Director is out of the country. Mr. Casey is in Florida on a well-earned vacation. So I decided to continue to do this on my own authority for up to a point, and that point was reached on the 3d when I was asked to come to a meeting.

Mr. **Woodcock**. And the meeting was with Lt. Col. North?

Mr. **Sporkin**. With North. At which point I said whoa, I have got to find out whether the Director knows about this, since I—he was the only one I could reach at the time.

Mr. **Woodcock**. So what did you do?

Mr. **Sporkin**. Well, I found out exactly where he was and made every effort to call him. I think after the third or fourth effort, I finally said well, you better get him off the golf course then.

Mr. **Woodcock**. Did you get him off the golf course?

Mr. **Sporkin**. I got him off the golf course.

Mr. **Woodcock**. What happened?

Mr. **Sporkin**. I explained to him what had taken place.

Mr. **Woodcock**. That is that North had directed you or asked you to come up with a Finding?

Mr. **Sporkin**. Again, we didn't have a secure line. I was telling him I was asked to provide certain services and I was also asked to go to a meeting. I told the Director that obviously I am not going to go to any meeting unless—first I asked him, do you know anything about it? He said he knew nothing about what was going on.

I said, secondly, do you want me to attend this meeting?

He said, well, go ahead, but to keep him advised.

And so with that approval, I then attended that meeting.

Mr. **Woodcock**. So now when you went to Lt. Col. North's office, based on the information or the authorization you had received from Director Casey, what happened?

Mr. **Sporkin**. I met with Lt. Col. North. It was late at night, maybe 7:30, 8 o'clock. He was extremely tired. I was tired. I did raise with him, I said, "Do you intend to bring . . ." I don't know whether I said have you advised Casey or do you intend to bring Casey into this matter.

Well, he told me that, no, the director had not been in the matter at the time, but he said, fine, he would bring him in because I mentioned that I was not going to do anything further in this matter without the director being fully briefed.

He said that was perfectly acceptable and that he would arrange to do it.

Mr. **Woodcock**. When you arrived there, did Colonel North already have or had he already worked on the Finding that we are assuming through probability had been sent down to him earlier in the day?

Mr. **Sporkin**. I think I saw—I think he handed me a redraft that evening. It was either that evening or the next time we met, but I believe it was that evening.

Mr. **Woodcock**. OK. At that meeting I gather you did not spend a lot of time going over the Finding; is that right?

Mr. **Sporkin**. Well, I did look at it. I noticed that the option of—on the notification or non-notification, that it was non-notification. I, either at that time or the next time we met, I asked him whether that decision had been appropriately made.

Mr. **Woodcock**. When you say appropriately made, what do you mean by that?

Mr. **Sporkin**. I mean made by an authority to make it. He said, yes. That had been made.

Mr. **Woodcock**. You meant somebody other than Lt. Col. North; is that correct?

Mr. **Sporkin**. I think he understood that.

Mr. **Woodcock**. Let me direct your attention to what has been marked as SS no. 9.

Mr. **Sporkin**. By the way, we ended the evening, we both went home and decided we would meet the next day.

Mr. **Woodcock**. Now, looking at no. 9, SS-9, is that the altered version of the Finding, the redraft that you believe you saw in North's office on the evening of January 3?

Mr. **Sporkin**. I don't think the word, "altered," is the right word. This was a draft that he made from a draft that I had—that we had given him.

Mr. WOODCOCK. Avoiding that term, it is a redraft, is it not?

Mr. SPORKIN. Right. Right. Right. In these hearings, you have to watch what words you use.

Mr. WOODCOCK. It is a changed version of your earlier effort; is that correct?

Mr. SPORKIN. I think he had every right to edit it. It was going to be his product. So that is fine.

Mr. WOODCOCK. I'm not using the term, "altered," pejoratively.

Mr. SPORKIN. I know you are not, but I am afraid others might.

Mr. WOODCOCK. Let me direct your attention to that. You have already testified that you noticed that the alternative provision that you had built in for notice or no notice to Congress had been excised?

Mr. SPORKIN. Right.

Mr. WOODCOCK. That is reflected in this edition of the Finding is that correct?

Mr. SPORKIN. That is correct.

Mr. WOODCOCK. It was at that point you asked Lt. Col. North whether he had gotten appropriate authority to make that excision; is that correct?

Mr. SPORKIN. Yes. Or to make the choice. To adopt the option, it was in option form, if you recall. I think either at that time, again, or again the next time, Mr. Woodcock, I think I also discussed with him a—I raised the issue why the hostage language wasn't in there at that time.

Mr. WOODCOCK. You think you raised that on the evening of January 3?

Mr. SPORKIN. I could have raised it as early as that. I think he did give me an explanation that the State Department didn't want it in there.

Now, again, I am trying to be as precise as I can, and I could be in error here, it could have been the next meeting. But, I am trying to bring things together. I think I had that—I think I did raise it that early, though.

Mr. WOODCOCK. Then you would have had an understanding at that point that in addition to the rationales already physically present in the Finding, that there was an ulterior rationale that related to the hostages; is that correct?

Mr. SPORKIN. No, I don't think I can answer that question the way you phrased it.

Mr. WOODCOCK. In order for you to ask Lt. Col. North whether hostages should be included in the Finding, presumably you had an understanding that one of the purposes of the Finding was to address the hostage situation; is that right?

Mr. SPORKIN. Oh, well, the—it is hard for me really to synthesize this, to bring everything together here.

Mr. WOODCOCK. Why don't we——

Mr. SPORKIN. Because there is obviously a reason I am raising it. I wish I could remember why I raised it, because I know about the other Finding. Maybe the reason I am raising it is because that I thought if we are going to—why not bring it all together, almost like a superseding kind of a document, or indictment—I shouldn't use that word—a superseding kind of a document, which should have all the purposes in it together.

Why have two documents? I think that was probably my mindset at that time.

**Mr. Woodcock.** I am not going to——

**Mr. Sporkin.** We are even now. You used altered and I used the other word.

**Mr. Woodcock.** We're even. I'm not going to ask you Judge to dwell on exactly when it was that you understood hostages was one of the purposes of the Finding, because there will come a point when that is a—clearly made known to you. Let me just take a moment further and address SS no. 9.

**Mr. Sporkin.** All right.

**Mr. Woodcock.** If you would direct your attention to the second paragraph of that document, that refers to "the USG." And that is a new import into the Finding.

Presumably the USG is the U.S. Government; is that right?

**Mr. Sporkin.** That is correct.

**Mr. Woodcock.** Do you understand how that term came to be employed in the document?

**Mr. Sporkin.** No. I really can't, except to just to try to be helpful, to think that that was probably be a very broad context, that all elements of the U.S. Government were to be involved.

**Mr. Woodcock.** That would be as opposed to, say, a specific reference to the CIA?

**Mr. Sporkin.** That is correct.

**Mr. Woodcock.** In fact the very earliest Finding you drafted directly referred to the CIA; is that correct? That is, I believe, SS no. 4?

**Mr. Sporkin.** Let me look at that again before I answer. You are right. You are right.

**Mr. Woodcock.** Now, also in this document, SS no. 9, there is a reference to the term, "third parties." That is the first time in the January series of Finding drafts that the term, "third parties," appears.

That was not a term that you imported into the Finding; is that correct?

**Mr. Sporkin.** I think that was not in my Finding. You are right.

**Mr. Woodcock.** Do you recall how it was that term came to be in SS no. 9?

**Mr. Sporkin.** No. I can't tell you, except I think—in my view, third parties—who third parties referred to. That is my own view.

**Mr. Woodcock.** What did you understand it referred to?

**Mr. Sporkin.** I think it referred to the people that were working with Iran, Ghorbanifar I guess. I don't know if that name was mentioned, but I think it would be that person, plus whoever was working with his group.

**Mr. Woodcock.** Did you have an understanding at this point as to whether private Israeli citizens might be involved in this effort?

**Mr. Sporkin.** Well, at some point, obviously, I learned that. I don't know whether you want to get into that other area, but remember the special Finding?

**Mr. Woodcock.** That had been brought to your attention back in the fall of 1985, that an Israeli citizen was involved in this; is that correct?

**Mr. Sporkin.** That is correct.

Mr. **Woodcock**. And in looking at that terminology now, do you believe that the third parties term was intended to encompass that kind of an individual, too?

Mr. **Sporkin**. Yes. I think they were a group of people.

Mr. **Woodcock**. Did Lt. Col. North tell you around this time whether it was contemplated that General Secord would play a role in this effort?

Mr. **Sporkin**. I have no recollection. Could have been, but I have no recollection.

Mr. **Woodcock**. And again on the—with respect to the exhibit SS no. 9, there is no reference up to this point to American hostages; is that correct?

Mr. **Sporkin**. That is correct.

Mr. **Woodcock**. Now after you and Lt. Col. North broke up from your meeting on January 3, you got together again on January 5, 1986; is that right?

Mr. **Sporkin**. Yes. As I told you, we were supposed to get together the next day because we were tired and worn out, and I waited. No call, and we also broke up with the understanding that Lt. Col. North would be in touch with the Director and to fully brief him on the matter. I left him, I said, "Now you are going to call the Director and brief him; is that correct?" He said, "Yes, I am going to do that."

Mr. **Woodcock**. January 5th came around.

Mr. **Sporkin**. Right.

Mr. **Woodcock**. That was a Sunday; is that right?

Mr. **Sporkin**. Right.

Mr. **Woodcock**. You had a meeting with Lt. Col. North and Director Casey on that day; is that right?

Mr. **Sporkin**. Yes. What happened is I received a phone call from Lt. Col. North sometime Sunday morning in which I was told that there would be a meeting with the Director, who was in the process of returning from Florida, at the Director's home. And I was pleased at that point to now know that the Director was involved.

Mr. **Woodcock**. And you went to the Director's house; is that correct?

Mr. **Sporkin**. That is correct.

Mr. **Woodcock**. And when you arrived there, either shortly before or shortly after you arrived there, Lt. Col. North also arrived; is that right?

Mr. **Sporkin**. That is correct.

Mr. **Woodcock**. When you got to the Director's house, what happened?

Mr. **Sporkin**. We met. Lt. Col. North had a copy of a Finding, a draft of a Finding, and he had with it a short cover memoranda, maybe a page or two. He gave that to the Director to read.

Mr. **Woodcock**. Let me back you up, if I may. You and Lt. Col. North went into the Director's house; is that right?

Mr. **Sporkin**. That is correct.

Mr. **Woodcock**. And you went down into a room that was, I guess, approaching a study; is that correct? Something along those lines?

Mr. **Sporkin**. Yes. Yes.

Mr. **Woodcock**. Who is present?

Mr. **Sporkin**. It was North, myself, and the Director.

Mr. **Woodcock**. No one else?

Mr. **Sporkin**. Well, he had somebody waiting for the next meeting, but no one else at that meeting.

Mr. **Woodcock**. No one in the room with you other than you three?

Mr. **Sporkin**. Right.

Mr. **Woodcock**. Now Lt. Col. North has brought with him, I gather, a copy of the Finding and the memorandum you just described; is that right?

Mr. **Sporkin**. That is right.

Mr. **Woodcock**. What does he do with the memorandum?

Mr. **Sporkin**. Shows it to the Director.

Mr. **Woodcock**. What does the Director do when North shows him the memorandum?

Mr. **Sporkin**. Reads it.

Mr. **Woodcock**. All right.

Mr. **Sporkin**. And when he was finished with it, he—I saw him have it, and I reached for it. He handed it to me.

Mr. **Woodcock**. Originally the memorandum wasn't offered to you; is that right?

Mr. **Sporkin**. Well, that is being unfair. I wanted to look at it and I took it.

Mr. **Woodcock**. So by this point you were willing to insinuate yourself into a situation.

Mr. **Sporkin**. Well, you remember my testimony, don't you? That is, always a good lawyer that does that. But, yes, I was curious and wanted to know what is in that memorandum.

Mr. **Woodcock**. Did you then read the memorandum yourself?

Mr. **Sporkin**. Yes, I did.

Mr. **Woodcock**. Now, you will recall, Judge Sporkin, that within the last couple of days we sat down and looked at a couple of memoranda. I am going to direct your attention to them in a moment.

Before I do that, I want to ask you. You recalled before you looked at these memoranda that the memorandum that you saw at Director Casey's house that day was directed to the President; is that correct?

Mr. **Sporkin**. Well, do we have a copy of that?

Mr. **Woodcock**. We do. There are actually two copies of this. They are marked as SS no. 10 and SS no. 11.

Mr. **Sporkin**. If that is the document, then it clearly says, "for the President."

Mr. **Woodcock**. All right, now my understanding, and you can correct me if your memory is not this clear, but as I recall—when we met——

Mr. **Sporkin**. That was——

Mr. **Woodcock**. Met earlier you understood when you saw this document you recalled that it—the document you saw on January 5 was addressed to the President. Is that an independent recollection that you have?

Mr. **Sporkin**. Again, I am not going to quarrel with that. It is immaterial, I am sure, if you say so. This document you just—on

10—was not the document that I saw. I can tell you that. I can't tell you from the substance, but I can tell you from the format.

Mr. WOODCOCK. How is that?

Mr. SPORKIN. Because if you look at—is it 12—N-1252? You see that? Are you—are we on the same—is it SS-10?

Mr. WOODCOCK. Let me direct your attention. There are several pages in this document. Let me direct your attention, in particular, to N-1251, that cover sheet. Take a look at that, if you will.

Mr. SPORKIN. Mr. Woodcock, what I am trying to say, if you look at the next page, you will see at the bottom there is a recommendation which says that you agree—that was not on the document I saw. I can tell you as sure as—almost as sure—almost. I never say anything is sure anymore, but almost as sure as I am sitting here I did not see that language. I think that would have impressed me.

Mr. WOODCOCK. Let me ask you to direct your——

Mr. SPORKIN. Yes. Yes.

Mr. WOODCOCK. Let me ask you to direct your attention to SS no. 11.

Mr. SPORKIN. That doesn't look like it either.

Mr. WOODCOCK. So neither of these documents appears to be the documents you saw that day?

Mr. SPORKIN. I'm not quarreling with the substance of what is in here. The only reason I'm questioning it is I don't think I saw that recommendation section and I think this document you have shown me has three pages. At most the document I saw had two pages. My memory isn't infallible and I could be wrong, but I'm just trying to give you the best I can on this. I'm not quarreling with the language, because the language looks somewhat like what I read.

Mr. WOODCOCK. Let me summarize just a moment here if I may. When we examined these two documents earlier you were unable to determine which one of these might have been the document you saw on January 5, is that right? That is right, is it not?

Mr. SPORKIN. You are right. Again, the only thing I'm focusing on is this recommendation thing at the end. I don't recall seeing that. I might have missed that.

Mr. WOODCOCK. I understand. I want to walk through this with you. Now you understand by looking at the choice at the bottom of the page on each document that that was something that you don't recall having seen on January 5, correct?

Mr. SPORKIN. I think that's right.

Mr. WOODCOCK. Now what I would like to do is go through just the substance of this. First, when you were shown the memorandum January 5, irrespective of its identity, the purpose of showing it to you was to place the Finding in context, is that correct?

Mr. SPORKIN. The purpose of the memo—yes, yes. It is the normal kind of a thing you would have with a Finding, which is, I think it's called a scope paper.

Mr. WOODCOCK. Both these documents, and they are not identical to one another, but both of these documents do have certain characteristics in common and what I would like to do with you is to see whether the characteristics that they have in common are consistent with your recollection of the document that you saw on January 5. These documents refer, both of them, to Israeli participation in the initiative.

Is that consistent with your recollection of the document you saw?

Mr. SPORKIN. Yes. That impressed me at the time. I clearly remember it.

Mr. WOODCOCK. It also states as an objective the establishment of a more moderate Iranian Government. Is that also consistent with the document you saw on January 5?

Mr. SPORKIN. I think it—it certainly is.

Mr. WOODCOCK. And finally, both documents refer to the release of American hostages. Is that also consistent with the document you saw on January 5?

Mr. SPORKIN. Yes, it certainly is.

Mr. WOODCOCK. Now, after you reviewed this document, and by the way did Lt. Col. North also bring a copy of the Finding with him?

Mr. SPORKIN. Oh, I'm sure of it.

Mr. WOODCOCK. After you reviewed this and Director Casey had reviewed it, did you have some discussion about the Finding?

Mr. SPORKIN. I'm sure we did. We went over it, looked at it.

Mr. WOODCOCK. And each of you is participating, is that right?

Mr. SPORKIN. Yes. It really amounted to reading the document and understanding, and Casey, the Director saying, in effect giving him his nod that it is OK.

Mr. WOODCOCK. Now in reading this document, that is the memorandum that you saw on January 5, did it become crystal clear to you that one of the objectives of the Finding was to obtain the release of American hostages?

Mr. SPORKIN. Yes.

Mr. WOODCOCK. Now, what was your reaction to that since the Finding up to that point did not include any reference to the release of American hostages?

Mr. SPORKIN. Well, again, either because of that or because of what I said happened on Friday night, I was concerned about that being omitted from the Finding.

Mr. WOODCOCK. So what did you do?

Mr. SPORKIN. Well, I thought about it, and I didn't raise it at that time as I recall, but it was sort of gnawing on me a little bit, and we got up to leave, we went out to a little hall and I—it happened very quickly, I saw Lt. Col. North, and I said "tell me again" or "tell me why we're not putting hostages in this document."

Mr. WOODCOCK. And it is just you and North at this point, is that right?

Mr. SPORKIN. That is correct. And he said that, mentioned that, either the Secretary of State or the Department of State did not want it in. And I said, well, you know, it doesn't sound right to me, and I said let's go back and see the Director. And we went back to the Director.

Mr. WOODCOCK. What was your concern about the omission of the reference to hostages?

Mr. SPORKIN. Well, it bothered me that, I guess there were a number of concerns but certainly an important concern was that this was an element in the proposed course of action and it wasn't in there, and the one thing about Findings that I believe were analogous to the business, the securities law business, is that it's almost like an offering statement that you make a document that contains everything because it's sort of an insurance policy kind of thing, that therefore people that carry that out know that they are protected if they carry out in the terms that are set forth in the document.

And so I went back to the Director and I raised it with him.

Mr. WOODCOCK. What was his response?

Mr. SPORKIN. Well, he hurried us out. You know, he listened to Lt. Col. North, who was not himself, it was clear that he was presenting a position that he didn't necessarily believe in. He was presenting what I believed he thought was the Department of State's position, that they didn't want it in. I think he gave all the arguments, that it looks like a hostage for arms shipment, it didn't look right and I think he gave all the arguments. My argument was but that's the fact, we are going with a very, this is going to be a very sensitive Finding, this is a very important element of that Finding—there is a proposal not to disclose this—not to notify Congress and nobody wants to put in what is in my view a very important element of that and I said I think it ought to be in there. And the Director agreed with me.

Mr. WOODCOCK. Turning just for a moment to Lt. Col. North's statement of a position of what you felt was either the Secretary of State or the State Department. Did you have an understanding as to whether the opposition emanating from the State Department was to, simply including the reference to hostages, or were they more fundamentally opposed to the initiative altogether?

Mr. SPORKIN. I didn't get the latter, and, again, that is not fair to them. That was not what—I did not get from them that was their point, but, again, that could have very well been their point but it is my perception, my perception was they didn't want it included in the Finding.

Mr. WOODCOCK. It wasn't clear, at least from the way Colonel North was describing it, that the State Department had an opposition fundamentally to the program as a policy; is that correct?

Mr. SPORKIN. I don't know whether—whether—again, I am going to discuss this with you, but it is going to be difficult for me to back up what I am saying, but I don't know whether the point was being made that if that was in that would be considered an arms-for-hostage and they would be out.

However, a program that involved these kinds of things did not upset them and, therefore, they could buy into it. But I would think it would have to be an honest program. It was not a—we weren't just, this is not window dressing.

So I think, I mean, again to be fair, that may well have been my thinking of what was going on at the time. In other words, it had to be an honest program where it would be for these items and not for the hostages?

Mr. WOODCOCK. In other words, you were not going to have a situation in which you had a covert Finding that was so covert that there were terms that were even secret from the text of the Finding itself; is that right?

Mr. **Sporkin**. No, I don't think that is what I just said. You know—I will leave what I said.

Mr. **Woodcock**. You didn't check with anybody in the State Department to determine precisely what their position was; is that right?

Mr. **Sporkin**. No, sir. I did not.

Mr. **Woodcock**. And that wouldn't have been your job anyway; is that right?

Mr. **Sporkin**. Well, I was, I thought I could operate right within the Agency. But we went back to the Director, had a discussion, and the Director agreed that the hostages was part of the program and ought to be in there.

Mr. **Woodcock**. Judge Sporkin, let me direct your attention, if I may, to the events that then followed.

Mr. **Sporkin**. All right.

Mr. **Woodcock**. Your meeting with Director Casey. You received the Director's approval——

Mr. **Sporkin**. Right.

Mr. **Woodcock**. —to include a reference to the term "hostages"; is that right?

Mr. **Sporkin**. That is correct.

Mr. **Woodcock**. What did you and Lt. Col. North then do?

Mr. **Sporkin**. We had some redrafting to do because of that, and we went down to the White House situation room and we made the—redrafted it.

Mr. **Woodcock**. Now, when you went to the White House situation room, who was there?

Mr. **Sporkin**. Just the two of us.

Mr. **Woodcock**. And you made changes on the exhibit—I believe it is SS–9; is that correct?

Mr. **Sporkin**. I think that is probably the draft we were working with; that is correct.

Mr. **Woodcock**. You made changes in that by hand writing them; is that correct?

Mr. **Sporkin**. Yes. We didn't have any——

Mr. **Woodcock**. Now, let me direct your attention, if I may, to what has been marked as SS no. 12. Do you recognize SS no. 12?

Mr. **Sporkin**. Yes.

Mr. **Woodcock**. SS no. 12 is the redraft that you performed in final typewritten form of the handwritten corrections based on your meeting with Mr. Casey; is that correct?

Mr. **Sporkin**. I believe that is correct.

Mr. **Woodcock**. Now, that document clearly refers to releasing American hostages; is that correct?

Mr. **Sporkin**. That is correct.

Mr. **Woodcock**. And in the lead paragraph—and if you would, you can compare this to SS no. 9—in the lead paragraph you lose the reference to Iranian elements; is that correct?

Mr. **Sporkin**. Which paragraph are you talking about?

Mr. **Woodcock**. That is the very lead paragraph—excuse me, in the body of the Finding under the term "description".

Mr. **Sporkin**. "Assist selected foreign liaison services in third countries—"; is that what you are saying?

Mr. **Woodcock**. Right. Which had established elements with Iranian—excuse me, established relationships with Iranian elements. Originally in your formulation on SS no. 9 you started out with "working with Iranian elements, friendly foreign liaison services and third countries," and that use of Iranian elements is now no longer present in the January 6 Finding; is that correct?

Mr. **Sporkin**. That is correct.

Mr. **Woodcock**. There was also a reference in there to establishing a more pro-U.S. Government in Iran. Who is the author of that term?

Mr. **Sporkin**. Well, I think—well, again, I can't say what I did and what he did, but I think what we were attempting to do at that meeting was to make it as tight and as clear and as accurate as we possibly could.

I think there was some looseness in the other drafts. I think this needed some tightening and I think that was the attempt to tighten it and I think that either he or I would come up with some language and we would discuss it and then we would agree and we would put it in. It would be just like you would do any kind of draft.

Mr. **Woodcock**. In other words, in looking for a more moderate Government in Iran, we were looking for one that would be moderate and well disposed towards the United States; is that correct?

Mr. **Sporkin**. Absolutely.

Mr. **Woodcock**. There was also a reference in here to preventing additional terrorist acts. Do you recall Lt. Col. North emphasizing that at any point since the beginning of the Iranian initiative that there had been no terrorist acts?

Mr. **Sporkin**. Yes, absolutely. I do remember that. He was very proud of that.

Mr. **Woodcock**. Was that a point that he would make more than once?

Mr. **Sporkin**. I think he made it to me more than once.

Mr. **Woodcock**. Now, Judge Sporkin, after you worked with Lt. Col. North on redrafting the Finding and came up with the January 6 version, which we have just discussed, did you also, during the week of January 6, begin to consult with your legal staff on how these arms transfers might be accomplished?

Mr. **Sporkin**. Yes.

Mr. **Woodcock**. And can you tell us what you did in that regard, generally?

Mr. **Sporkin**. Well, what I did again was went and brought the team together and tasked them with certain things that I wanted to do.

I think we had gone through some of these things orally and knew what the drift was and what the general lay of the legal landscape was and I said there is a time we got to start putting these things in writing and that is what we did.

Mr. **Woodcock**. Now, let me direct your attention, if I may, to what has been marked as SS no. 13.

Chairman **Inouye**. Mr. Woodcock, may we take a short recess. We will recess for 10 minutes.

[Recess.]

Chairman **Inouye**. The hearing will please come to order.

Before proceeding, the following documents will be made part of the record. Without objection, they shall be placed in the record and identified as exhibits GAR-1 through GAR-10, DOD-1 through and including DOD-16, AH-28 through and including AH-43, and EA-30A.

[Exhibits AH-28A through AH-43 and EA-30A appear in volume 100-5.]

Chairman **Inouye**. Mr. Woodcock?

Mr. **Woodcock**. Thank you, Mr. Chairman.

Judge Sporkin, at the point of our recess, I believe that I had just addressed a question to you with respect to your consultation with your legal staff; is that correct?

Mr. **Sporkin**. That is correct.

Mr. **Woodcock**. Let me direct your attention, if I may, to exhibit SS-13.

If you would, in particular, address your attention to the first paragraph.

Mr. **Sporkin**. Excuse me for a second.

Mr. **Woodcock**. This is a memorandum that is addressed to you; is that correct?

Mr. **Sporkin**. Excuse me. What was that again?

Mr. **Woodcock**. This is SS no. 13.

Mr. **Sporkin**. Yes.

Mr. **Woodcock**. Now directing your attention to the first paragraph of that memorandum——

Mr. **Sporkin**. Right.

Mr. **Woodcock**. —The gist of that is that you are being told that the preferable route to accomplish the arms transfer would be through the CIA under the authority of the Economy Act and under the authority of a covert action Finding; is that correct?

Mr. **Sporkin**. That is correct.

Mr. **Woodcock**. And that was the position that your lawyers put to you; is that correct?

Mr. **Sporkin**. Yes. You say "preferred." I think they say that is the way to do it.

Mr. **Woodcock**. That is the way to do it?

Mr. **Sporkin**. Right.

Mr. **Woodcock**. That is opposed to having some other U.S. Government Agency such as the Department of Defense be the prime facilitator of the arms transfer; is that correct?

Mr. **Sporkin**. Well, obviously this is the way—I am sorry. I must be out of alignment here.

That is the way—I don't think I can read that other part of your question into this. They are saying that that is the—there is authority to do it through the economy route.

Mr. **Woodcock**. You understand at this time that this isn't the only method that is being considered; is that right?

Mr. **Sporkin**. That is right. Right.

Mr. **Woodcock**. And other agencies are being considered, in particular DOD, to take a more prominent role in this than the CIA would; is this correct?

Mr. **Sporkin**. That was a consideration, my consideration as to whether DOD might not be the—be preferred to go that route rather than through the Economy Act.

Mr. **Woodcock**. Also let me direct your attention, if I may, to paragraph three. Paragraph three warns of a problem that may arise——

Mr. **Sporkin**. Right.

Mr. **Woodcock**. —if a foreign country which has received U.S. war materiel then transfers it to another country, in this case, although the writer of the memorandum may not know it, the recipient country would be Iran; is that correct?

Mr. **Sporkin**. That's correct.

Mr. **Woodcock**. So as you get your lawyers together, it becomes apparent that your legal team is telling you that the CIA is probably the best one to do it under the authority of the Economy Act and the covert-action authority, and also that there would be significant problems in simply rotating another country's war materiel stocks, that had come from the United States; is that right?

Mr. **Sporkin**. That was the conclusion that I drew from this memo, which I came—my own conclusion independent of that. It just, in my view, was not a very good idea to do it that way.

Mr. **Woodcock**. Let me direct your attention, if I may, to SS no. 14.

Mr. **Sporkin**. Yes, sir.

Mr. **Woodcock**. This is the memorandum that is directed to the Director of Central Intelligence. It is the opinion of our researchers that this is probably authored by John McMahon, then the Deputy Director of Central Intelligence. I am going to only ask you to direct your attention to the first paragraph wherein the memorandum describes for the DCI's benefit, your legal analysis which says, "There are really two options, one for DOD to do it directly with the Israelis, and the other to do it through CIA."

Now, at that point, from your own recollection of events, the Israelis have effectively been dropped as an option; is that correct?

Mr. **Sporkin**. I think you are probably right. I hope—I mean, I don't know if they later creep—come back in, but I think that would be my thinking at that time, yes.

Mr. **Woodcock**. That certainly wasn't your recommendation at that point, that Israel's U.S. war stocks be rotated; is that correct?

Mr. **Sporkin**. That was just a bad way of doing it. It was bad for this country. It was bad for Israel. It was the wrong way to do it.

Mr. **Woodcock**. To that extent, the memo does not accurately reflect your thinking at the time; is that right?

Mr. **Sporkin**. In what——

Mr. **Woodcock**. In the respect that it calls for DOD to do it directly with the Israelis?

Mr. **Sporkin**. Well, that—you have to realize, I don't know who wrote this. I didn't see the memo at the time. You have to allow for what I called imprecise language. I don't know whether he means to do it where Israel is going to just act as the middle person to send it over or if he means the rotation.

If he means rotation, it would be wrong. If he meant that Israel would be a forwarding post, I wouldn't have had any problem.

You have to realize these memos are not being written with the precision you would write a trust indenture or a will.

Mr. **Woodcock**. Now let me direct your attention, if I may, to exhibit no. SS-17.

Mr. **Sporkin**. Yes.

Mr. **Woodcock**. In particular, let me direct your attention to that portion of the exhibit which is headed "15 January 1440 hours."

Mr. **Sporkin**. Yes.

Mr. **Woodcock**. That is a memorandum again from a member of your staff memorializing a telephone conversation between you and that staff member; is that correct?

Mr. **Sporkin**. That's what it looks like.

Mr. **Woodcock**. And again, the staff member is taking this opportunity to push the position that the CIA should be directly involved in the transfer; is that correct?

Mr. **Sporkin**. That is correct.

Mr. **Woodcock**. Now, this memorandum indicates that you are calling upon the office of Lt. Col. Oliver North. Do you recall that to be the case?

Mr. **Sporkin**. That is correct.

Mr. **Woodcock**. Do you recall what you and Lt. Col. Oliver North were doing at his office?

Mr. **Sporkin**. What were we doing?

Mr. **Woodcock**. Yes.

Mr. **Sporkin**. Again, I guess we were discussing the way to do the transaction the preferred way.

Mr. **Woodcock**. And that included exploring the entire range of possibilities, either having DOD do it or CIA do it and so on; is that correct?

Mr. **Sporkin**. Yes. Well, what I think happened there, if I can recall correctly, is that again the issue came up of whether the CIA ought to do it or the DOD ought to do it. And at that time, it is my preference because I think this would be consistent with what the Agency wanted to have done and consistent—and it wasn't inconsistent with what the NSC wanted done, which would be to have the DOD do it. Let them do it directly; keep the CIA out of it as a—as the middleman here, or middle person. I believed, in my own analysis, that it could be done that way.

Mr. **Woodcock**. Through DOD?

Mr. **Sporkin**. Because I believe that the President has the right to designate who he wants to do a covert operation. Even in 12333, it says that the CIA should do it unless the President shall otherwise direct.

It would, it seemed to me to satisfy a number of concerns. However, since I realized, and I think there is a memo of mine on that same date, that I realized there was no precedent. And I——

Mr. **Woodcock**. For DOD——

Mr. **Sporkin**. —and I wanted one more time to go over it with my staff person, who had the most knowledge in this area, to go over the legal aspects of it to determine what were the legal bases not for doing it this way.

Mr. **Woodcock**. Right. And that——

Mr. **Sporkin**. And that was the purpose of the call. I did not want to do anything precipitously. I believe I called—I wrote even an article on this. There ought to be second opinions in the field of law just as you have in medicine. I was getting a second opinion.

Mr. **Woodcock**. Right. And that exhibit SS–17 reflects your effort to consult with your staff, is that correct?

Mr. **Sporkin**. That is correct.

Mr. **Woodcock**. Let me direct your attention, if I may, to what has been marked as SS no. 16.

Mr. **Sporkin**. Yes sir.

Mr. **Woodcock**. You mentioned just a moment ago that you prepared a memorandum of your own on January 15. Is this the memorandum you were referring to?

Mr. **Sporkin**. Yes. This is again—either I or someone under me prepared it. But this is—these are ideas that I was trying to get across to the Director.

Mr. **Woodcock**. Now, the first paragraph of that advises the—advises that the preferable route to do this is through CIA taking actual control of the materiel through the Economy Act?

Mr. **Sporkin**. That goes back to that memo that we just mentioned. That clearly is the one that is the safest. It is the one that everybody—nobody has any problems with. And that is why it is put there that way.

Mr. **Woodcock**. And paragraph 2 describes your interpretation of how it would work if DOD did it and you note that there is no precedent for doing it in that way, is that correct?

Mr. **Sporkin**. That is correct. We would be charting a new course. But, I think I make it clear, even both paragraphs, that if DOD would do it, they are going to have to make the determination. This is not a determination that I am going to make.

Mr. **Woodcock**. Right.

Mr. **Sporkin**. All I am trying to find out whether it is, when its face—feasible to do it. But I say that if we go this route, that this is a determination DOD is going to have to make. And if that got accepted, I must say to you, and if the DOD is as strong as they say they are, this whole thing would have been ended.

Mr. **Woodcock**. We will all be left guessing on that point.

Mr. **Sporkin**. Yes.

Mr. **Woodcock**. At this point, Judge, a key issue is the kind of notice provisions that are built into the various statutes that might be applicable to any arms transfer mechanism that is actually employed, is that correct?

Mr. **Sporkin**. Yes, it is. That is correct.

Mr. **Woodcock**. In fact, it is fair to say that is the guiding light of the formulation of the final arms transfer mechanism, is that correct?

Mr. **Sporkin**. Well, let's not characterize it as guiding light. But I say as a key issue. The point I am trying to get across there is no matter which way you are going to do this, there are notification requirements, and people ought to realize that.

Mr. **Woodcock**. Right.

Mr. **Sporkin**. Let's not get away from that point. You are going to have to notify the Congress.

Mr. **Woodcock**. Right.

Mr. **Sporkin**. That is what I am trying to get across to them. Say OK, now you can do it in any one of a different way. There might be different ways of notifying them, but let's get it across you are going to have to notify.

Mr. WOODCOCK. You understood at the time the notice provisions to Congress were a key element in determining what kind of mechanism would be used, is that correct?

Mr. SPORKIN. I think it says the key element, whether or not there will be notification, and I must have gotten that from somebody, that somebody must have thought that there was not going to be any and I wanted to dispel that.

Mr. WOODCOCK. Let me direct you again to the second page of this exhibit.

Mr. SPORKIN. Right.

Mr. WOODCOCK. And I believe that you are speaking in your own voice when you use the personal pronoun, "I"; is that correct in this memorandum? Is that you speaking?

Mr. SPORKIN. It must be. I didn't even look at it that carefully.

Mr. WOODCOCK. Let me direct your attention to the first full paragraph, which reads: "I repeat again that it is the various reporting requirements that seem to be dictating how we can proceed."

It is not an overstatement to say that reporting requirements are a key element driving the mechanism for the arms transfer, is that right?

Mr. SPORKIN. Well, go ahead. Why don't you go on?

Mr. WOODCOCK. Well that is the question.

Mr. SPORKIN. Well, again, I don't know whether I overwrote this, but I would agree it was a key—at least when I wrote this it was a key element. If there can be an agreement that a report will be made, it minimizes the risks inherent, the way the project is carried out, can be put on a less fractious basis. Get together, folks, because you have to read that last paragraph there.

And what do I say in the last paragraph? I say:

> finally, whatever plan is adopted, such action should be taken only after it has been discussed with the Attorney General, the Secretary of Defense, the Secretary of State, and the Assistant to the President for National Security Affairs.

And if I could have thought of others, they would have been put in, including the Joint Chiefs of Staff and the Vice President.

Mr. WOODCOCK. I understand, Judge Sporkin. I am not trying to suggest it was your personal preference that Congress not be notified. What I am trying to get out is that a key element at this time is the congressional notice requirements, is that right?

Mr. SPORKIN. Well——

Mr. WOODCOCK. It is. Right?

Mr. SPORKIN. If you want to testify, go ahead. I will leave it up to you.

Mr. WOODCOCK. Well——

Mr. SPORKIN. You are asking me, you are trying to pin me on something. I just don't want to be pinned on it. What I am trying to say is, and I might have overwritten it, but what I am trying to say is I was under the impression—it might have been a misimpression—that somebody was thinking there is going to be no notification. Now, I could have been dead wrong on that. What I was trying to get across is, forget that folks, there is going to be notification.

Mr. WOODCOCK. All right. I am not going to belabor the point. I think the document speaks for itself.

Mr. SPORKIN. Yes. All right. I have heard that one before.

Mr. WOODCOCK. All right, Judge Sporkin, the day after January 15, on January 16, you attended a meeting, did you not?

Mr. SPORKIN. That is correct.

Mr. WOODCOCK. Where was that meeting held?

Mr. SPORKIN. That was held in Admiral Poindexter's office. The second floor of the White House.

Mr. WOODCOCK. You were not originally scheduled to appear at that meeting, is that correct?

Mr. SPORKIN. I had not been told about it, that is right.

Mr. WOODCOCK. You were called in the midst of the meeting and asked to come over, is that right?

Mr. SPORKIN. That is right.

Mr. WOODCOCK. What happened when you got there?

Mr. SPORKIN. When I got there present were the Secretary of Defense, Admiral Poindexter, the Director of Central Intelligence, the Attorney General, and I was told that the Secretary of State had been invited but had to—could not make it. I think I have been told after that he was actually there but he had left.

So I was pleased to see that what I had recommended or suggested, had actually occurred, that all these people had gotten together.

Mr. WOODCOCK. These are Executive Branch people, is that right?

Mr. SPORKIN. Right.

Mr. WOODCOCK. What was the subject?

Mr. SPORKIN. The subject was the matter we are talking about, obviously.

Mr. WOODCOCK. Right. What were they looking for from you that they invited you to this meeting?

Mr. SPORKIN. Well, I think they were going over the various issues involved. For example, they went over the question of the—whether this was doable.

Discussing the Economy Act.

We discussed French—former Attorney General French Smith's opinion. The Attorney General said he has looked into that matter. He agrees with the legal analysis. He says it is doable.

We discussed the notification issue and on that point, it was clear that there would be notification as soon as the hostages—this is my recollection—as soon as the hostages were out.

It was also clear, which goes back to my other memo, that there would be notification to the Congress by this President at some point.

Mr. WOODCOCK. What event was going to trigger the notice?

Mr. SPORKIN. I believe it was the release of the hostages.

Mr. WOODCOCK. At that time it was your understanding that the hostage release was really, nearly imminent, is that correct?

Mr. SPORKIN. Well——

Mr. WOODCOCK. Let me put the question differently. Had you tied the hostage release to a particular event?

Mr. SPORKIN. A day or two later, I tied it to a meeting that was to take place which I don't think I had that knowledge at that time.

Now the one thing I want to mention before we leave this, Mr. Woodcock, if I may, is that as we were breaking up, the Secretary of Defense said that I want to review all this. I want to have my lawyers look at it and to see if that analysis is correct. And so the meeting broke up without there being any decision made.

The next day, I received a call from the Director—I think it was the next day—in which he said that he received a call from the—from the Secretary of Defense, who said that his people have looked it over and they agree with the analysis and they have signed off on the project.

Mr. WOODCOCK. And the mechanism then to be employed is the CIA through the Economy Act, is that correct?

Mr. SPORKIN. I think that is correct, yes.

Mr. WOODCOCK. Now, do you recall a couple of days later, on January 18, having a phone call or phone conversation over a secure phone with John Poindexter?

Mr. SPORKIN. Yes, I do.

Mr. WOODCOCK. Do you recall how that phone call came about and what the subject was?

Mr. SPORKIN. Well, at some point, I don't know if we discussed other things, but at some point, I had learned—and I can't tell you from whom—that General Secord was going to be utilized in the operation.

Mr. WOODCOCK. That was a name that was not strange to you, is that correct?

Mr. SPORKIN. It was not strange to me.

Mr. WOODCOCK. That was a name you knew before through your duties as General Counsel for the CIA, is that right?

Mr. SPORKIN. That is correct.

Mr. WOODCOCK. In fact, at one point, General Secord, in 1983, had come to your office seeking a CIA security clearance, is that correct?

Mr. SPORKIN. I think you are right.

Mr. WOODCOCK. You met with him and his lawyer, Tom Green, is that correct?

Mr. SPORKIN. That is correct.

Mr. WOODCOCK. And you had the unfortunate duty of advising General Secord that he could not have his CIA clearance, is that correct?

Mr. SPORKIN. I don't know if it was unfortunate, but I did do it.

Mr. WOODCOCK. You advised him that the CIA could not give him a security clearance because an investigation was still ongoing into matters relating to Edwin Wilson and General Secord's association with Edwin Wilson, is that correct?

Mr. SPORKIN. There is a memo that I saw in which I think Mr. Secord has written as to that meeting. I think he is essentially correct in what he says.

Mr. WOODCOCK. So when General Secord left that meeting, he did not have his security clearance; is that right?

Mr. SPORKIN. That is correct.

Mr. WOODCOCK. To the best of your knowledge, he never did get a CIA security clearance; is that right?

Mr. SPORKIN. So far as I know, that is correct.

Mr. Woodcock. So with this background information, when you spoke with Admiral Poindexter, what were you imparting to him?

Mr. Sporkin. Well, you have to understand I just don't pick up the phone and call Admiral Poindexter. Therefore, there must have been something that disturbed me in which I just wanted to make sure I said to the admiral, "do you know that General Secord is involved in this project," and I want to know whether you have properly, in effect, vetted him and are determined that he is exactly what you wanted to use.

I mentioned there is—that there is a background matter here, and that—to, I assume, that he would look into it, that he—I asked him whether he knew about it. He told me he did not know about it and that he would look into the matter.

Mr. Woodcock. That was as you left it; is that correct?

Mr. Sporkin. Yes. That is how I left it. Nothing further on that.

Mr. Woodcock. Now, on January 20, you attended yet another meeting—you attended a meeting; is that correct?

Mr. Sporkin. That is correct.

Mr. Woodcock. Where was that held?

Mr. Sporkin. That was in the situation room.

Mr. Woodcock. At the White House; is that correct?

Mr. Sporkin. That is correct.

Mr. Woodcock. And Clair George was present and he was the Deputy Director of CIA operations; is that correct?

Mr. Sporkin. That is correct.

Mr. Woodcock. You, yourself, were there?

Mr. Sporkin. That is correct.

Mr. Woodcock. General Secord was there?

Mr. Sporkin. That is correct.

Mr. Woodcock. The Deputy Chief of Near East Affairs in CIA was there? Is that right?

Mr. Sporkin. Right.

Mr. Woodcock. And Lt. Col. North?

Mr. Sporkin. That is correct.

Mr. Woodcock. I gather from what we discussed earlier, you were not eager to go to this meeting; is that correct?

Mr. Sporkin. Well, yes. I was not eager at all to go. I was winding my way down at the Agency at this time and the meeting, as I recall, occurred on Martin Luther King's birthday, which I think was the 20th of January.

I was called at home by Mr. George and asked me if I would accompany him in a meeting.

As you can see now, from the time I came there, until now, how things have turned full cycle. I say, well, I don't see any reason why I ought to be at that meeting. You know, I am trying to wind my way down. Why do you need me?

He said, no, we need you.

Mr. Woodcock. So you went?

Mr. Sporkin. Well, I reluctantly went. Only because he said that he wanted his lawyer there. So I went. Now, I was—my recollection is I was told it was going to be Admiral Poindexter, North, Mr. George, his Deputy, and me. But when I got there, I found it was Mr. Secord.

I don't believe I would have attended that meeting if I had known that Mr. Secord would have been there. Not because it was Mr. Secord. It is just that I didn't think I wanted to be involved in a matter involving agents and operations not affiliated with the Agency.

Mr. **Woodcock**. Now, when you got there, you saw Mr. Secord?

Mr. **Sporkin**. Right.

Mr. **Woodcock**. Are you saying from your testimony that your background knowledge of Mr. Secord did not cause you any concern?

Mr. **Sporkin**. I didn't—did I—what I said was it wasn't—I didn't know he was going to be there. My not wanting to go to the meeting had nothing to do with him since I didn't know about it.

My not going to the meeting had to do with—I didn't think I wanted to be involved.

Mr. **Woodcock**. When you got there and saw him, did that cause you some concern?

Mr. **Sporkin**. Yes, it did.

Mr. **Woodcock**. And you did not take an active participation in the meeting; is that correct?

Mr. **Sporkin**. Well, what happened is I had two choices. One is I would get up and leave and leave a bad taste in people's mouths when I was a week or so away from leaving the whole Agency. Or, two, I could sit by and say very little. And what I did is I sat by and said very little.

Mr. **Woodcock**. You did not see a copy of the Presidential Finding of January 17, at this meeting; is that correct?

Mr. **Sporkin**. I didn't see that. I didn't see anybody editing anything. I can tell you exactly what I said, as I can recall.

Number one, they were talking about a meeting that was going to be held in London, and I said, look, folks, at this meeting you have to assure yourself of two things. We are going to get the hostages and we are going to get paid for the product we are giving up.

I told them, I said, look, you have to realize you don't bring lawsuits on these matters if they don't fulfill their end of the bargain. So you have got to take steps to make sure that we are going to get what we are bargaining for.

That, I think, is essentially what I had to say at that meeting.

Mr. **Woodcock**. You referred to an upcoming meeting in London. Did you have an understanding that that event might be the event that would lead to the release—the immediate release of the hostages?

Mr. **Sporkin**. I thought that was going to be a very important event, yes.

Mr. **Woodcock**. And you connected that with the release of the hostages; is that right?

Mr. **Sporkin**. I think I did.

Mr. **Woodcock**. You went to no further meetings on this subject after January 20?

Mr. **Sporkin**. No. I was asked the next day to go to another meeting. At that point I said, folks, that is it. The ball game is over.

I assigned another member of the staff to go to the meeting. I had nothing further to do, other than, I was told sometime before I left—remember, I left on February 7th, and this is January 21st, between those two dates, I think Mr. George—I asked Mr. George what has happened with the project.

And he told me that it had collapsed, that the meeting in London had not come off, and I was under the impression it was dead and it was over. And that is the impression I had when I left the Agency.

Mr. WOODCOCK. Do you have a recollection as to approximately when that conversation would have occurred?

Mr. SPORKIN. No.

Mr. WOODCOCK. Sometime between January 20, 21 and the time you went to the judiciary? You can't pinpoint it any further than that?

Mr. SPORKIN. No, sir. That is my recollection, too, based upon my recollection that I have.

Mr. WOODCOCK. Let me take just a moment—digress just a moment, Judge, and direct your attention to a series of exhibits first in your book, SS-15. Do you recognize that?

Mr. SPORKIN. Yes.

Mr. WOODCOCK. That is the Finding that bears a handwritten and third parties reference at the top. Is that your handwriting?

Mr. SPORKIN. Yes.

Mr. WOODCOCK. Why was that added, sir?

Mr. SPORKIN. At some point, Lt. Col. North showed me this signed Finding and I think he indicated to me that it was going to have to go—might have to go back again to be redone, at which point I read it.

I saw the "third parties" was in the second paragraph, but was not in the first paragraph. I added it to the first paragraph and wrote it in.

Mr. WOODCOCK. Now, in writing in "third parties", your attempt was to lend symmetry to the Finding; is that correct?

Mr. SPORKIN. That is correct.

Mr. WOODCOCK. In other words, if you are going to use the phrase in one paragraph, you should use it in the other to properly complement it; is that correct?

Mr. SPORKIN. That is absolutely correct.

Mr. WOODCOCK. In using that term, you did not have in mind the notion of a commercial cutout; is that correct?

Mr. SPORKIN. I don't think so.

Mr. WOODCOCK. Your recollection was that that was Ghorbanifar?

Mr. SPORKIN. You mean on using "third parties"?

Mr. WOODCOCK. Correct.

Mr. SPORKIN. No, sir.

Mr. WOODCOCK. That was Manucher Ghorbanifar, and others, in your mind?

Mr. SPORKIN. That is my recollection, yes.

Mr. WOODCOCK. In fact, it is your opinion that the Finding does not need to expressly refer to commercial cutouts in the execution of a CIA covert operation because they have those facilities available to them; is that right?

Mr. SPORKIN. Well, they have to operate through people. We can't operate normally by ourselves. So I think that is assumed.

Mr. Woodcock. And also let me direct your attention, if I may, to SS-18.

Mr. Sporkin. Yes, sir.

Mr. Woodcock. And that is the Finding with the handwritten change typed in. "Third parties" now appears in the body of the first paragraph; is that right?

Mr. Sporkin. That is correct.

Mr. Woodcock. Now, Judge Sporkin, on the subject of commercial cutouts, the CIA has its own range of private proprietaries; is that correct?

Mr. Sporkin. That is correct.

Mr. Woodcock. Unless some extraordinary circumstance arises, it has those available to it to execute covert actions; is that right?

Mr. Sporkin. That is my understanding.

Mr. Woodcock. So from your own personal observation and your own understanding of this initiative, was there any reason why a commercial cutout was needed to execute the Iran arms initiative?

Mr. Sporkin. Again, I am not really the expert to be able to talk about that. That is something I didn't focus on.

I must say in fairness, again, it didn't bother me that they were using a—they would be using an outside agent. I was concerned as to the identity of the outside agent, but not as to the concept. That never bothered me. If it could be done——

You can't get yourself in this business in what I call a straightjacket or muscle bound if there is a better way of doing it.

That, I think, is one of the great benefits of having an Agency like the CIA, that it isn't limited as to how it can do some of these things.

Mr. Woodcock. It also is a fact, is it not, when the CIA uses a private proprietary there is a process for the accounting of funds?

Mr. Sporkin. Oh, yes, that I understand, and it is done very well, and it's because of the prior investigation of the Church committee that looked into the proprietaries at that time. And, therefore, they were revamped, and I believe the best I know—and again, I haven't been there in 18 months—but the best I can tell you, it is working very well. There is an accountability scheme to deal with the funds.

Mr. Woodcock. Now, Judge, just a couple of final questions.

At any time in the drafting of these Findings, were you told that one of the purposes of the Finding was to create funds to support the Nicaraguan opposition?

Mr. Sporkin. No, sir, I have no recollection at all—of that at all.

Mr. Woodcock. In fact, the plain reading of the Finding would reveal no authority for that kind of a transfer; is that correct?

Mr. Sporkin. And I would add something to that. These Findings are not written for the purpose of not having any effect. These Findings are written to be important documents, to give guidance of how these things are to be carried out.

And I can tell you, if they did mention that to me and if that were going to be part of this program, if they caught me sleepwalking at some point, that would have been in the Finding. There would have been no reason not—I mean why, why should anybody undertake that unless the President authorizes it?

Mr. **Woodcock**. And this Finding does not authorize it; is that correct?

Mr. **Sporkin**. I don't see how it could conceivably authorize it. They are not discussed, they are not considered.

Mr. **Woodcock**. In fact, Judge, when you were with the Office of General Counsel, when you were the General Counsel of CIA, I believe you took the position that under the Boland Amendment, the CIA itself could not participate in the raising of funds for the Contras; is that correct?

Mr. **Sporkin**. That is absolutely correct. You have had a lot of testimony on the Boland Amendment but here is one person that tried to adhere to that as best that anybody could both in language and in spirit, and not for me, my purpose, but the Agency's purpose. And I'm a little bit hurt in instances where that was not done because there could be nobody that could have been telling the people at the Agency as often as I did, that that had to be complied with, from the day the first Boland Amendment until I called our people in to tell them.

This is no disrespect to Congressman Boland, when I use the word this could be a Trojan horse, and we've got to make sure that this doesn't come back to hurt us. And while everybody was happy because there is some, I don't want to use the word weasel words in it, but there were some words that indicated they were happy with that first adjustment that was made that said that you could—it could be for the purpose of overthrowing and everybody said, "We can do it for all other purposes."

The point that I made was, we'd better tell our people what they can do it for. And I sat down and went over a document with them and I remember that some of my people had not understood that that was a role of a lawyer and I had to explain to them that lawyers are counselors in addition to lawyers that come in on litigation, and we must provide counseling advice to our clients.

In any event, I prepared a document, went up, and while there is some people I think lower down on the DO, the person that was in charge was very supportive, and, I must tell you, so was the Director. As a matter of fact, the Director, who is not a person that gives very many compliments, when he saw it, said to me, "Stan," he says, "You don't know how to write." He says, "This is too weak," and I remember him putting in language that said not only—almost the language that came later on—not only they could not be used for that purpose but could not even have the effect, and I was very pleased that he saw it that way.

That document went down to all the people and it is my understanding, and I hope—well, it is my understanding they were complying with it.

Mr. **Woodcock**. And it was also your understanding that this Finding could not have authorized that kind of support from the CIA?

Mr. **Sporkin**. Again, this is something that would have been foreign, something that would have been, that—even, as I say, if somebody could even convince me this is something that ought to be done, at the minimum it would have been in the Finding.

Mr. **Woodcock**. Right.

Judge Sporkin, thank you for your patience. I appreciate the time you have put in before us, and I turn you over to the chair.

Mr. SPORKIN. By the way, I appreciate your courtesy, Mr. Woodcock.

Mr. WOODCOCK. Thank you, sir.

Mr. Chairman, if I may, I would move the entry of exhibits SS-1 through SS-18 into the record.

Chairman INOUYE. Without objection, so ordered.

Mr. Nields.

Mr. NIELDS. Thank you, Mr. Chairman.

Good morning, Judge Sporkin.

Mr. SPORKIN. Good morning, Mr. Nields.

Mr. NIELDS. I would like to refer back to the first Finding, the one which I believe you testified was drafted on the 25th of November. And there is a cover memo of the—or rather, a letter from Casey to Poindexter dated the 26th of November, which is exhibit 3, and I take it it's your understanding that this was a cover letter which attached the Finding that you drafted, and sent it to Admiral Poindexter?

Mr. SPORKIN. I didn't see it at the time, but it is obvious it is what you say it is.

Mr. NIELDS. And it was your understanding that the Finding was to be sent to the White House?

Mr. SPORKIN. Oh, yes. Yes. I said that the Deputy Director was very supportive.

Mr. NIELDS. And the Finding which was sent is the one which is exhibit 4 and I think it's now up on the board.

Mr. SPORKIN. That is correct.

Mr. NIELDS. And it makes reference to munitions.

Mr. SPORKIN. Yes, sir.

Mr. NIELDS. And it makes reference to munitions apparently being provided by a foreign country to Iran. Am I correct so far?

Mr. SPORKIN. You had better—do you want to repeat it or have him repeat it?

Mr. NIELDS. I'm directing your attention to the language as part of these efforts, certain foreign materiel and munitions may be provided to the Government of Iran.

Mr. SPORKIN. That's correct.

Mr. NIELDS. And I take it that it was your understanding that this Finding referred, at least in part, to a transaction which had already occurred?

Mr. SPORKIN. Yes.

Mr. NIELDS. And that was the shipment of some weapons to Iran by a foreign country?

Mr. SPORKIN. Again, if you say so, I'm not going to dispute it, if that's what the fact is. I'm right now drawing a blank on that, but just help me with the facts a little bit.

What happened on that first transaction precisely? I know we were using our proprietary to help in transport and communication. Did the first ones come from Israel? I don't remember that.

Mr. NIELDS. The public record reflects, the record of this hearing reflects that on November the 24th, 18 HAWK missiles were shipped by—I should say 18 HAWK missiles from Israeli stocks were shipped to Iran.

Mr. SPORKIN. Through a CIA proprietary?

Mr. NIELDS. Correct. That is what the public record——

Mr. SPORKIN. I will accept that.

Mr. NIELDS. —reflects.

Now I take it you are telling us either you did not know or you have since forgotten the precise details of exactly what had happened, but you were aware that something had happened, I take it.

Mr. SPORKIN. Well, I would say that I had forgotten the details.

Mr. NIELDS. OK.

I think—I would obviously—there is no quarrel I have with the briefing I received. I think they were very forthcoming, so I don't have any quarrel with the briefing.

The only thing I can say is, I forgot what the details are.

Mr. NIELDS. I take it from your testimony today that at some later time you arrived at the conclusion that there was a legal problem with a country such as Israel transferring United States obtained stocks to a third country.

Mr. SPORKIN. Right.

Mr. NIELDS. And that you indeed regarded that as a problem with or without a Finding?

Mr. SPORKIN. Right.

Mr. NIELDS. Now, the record also reflects that originally it was intended that Israel transport 120 HAWK missiles to Iran, and then after the 18 had been transported on the 24th of November, there were no further shipments. The record also reflects that there was a meeting of cabinet officials and the President and the Deputy Director of Central Intelligence on December the 7th, followed by a trip to London by Mr. McFarlane, and Mr. North on the 8th, at which they met with some Iranian intermediaries.

I take it you have no knowledge of the conversations that occurred at the December 7th meeting or during the December 8th trip.

Mr. SPORKIN. I can even go further than that. I don't believe I was at any time apprised as to the fact there were meetings, or what was discussed.

Mr. NIELDS. So you would not be aware, and I should state there will be some further evidence on these questions introduced later on in these hearings, but for present purposes, you are not aware of whether, for example, legal problems were discussed at those meetings?

Mr. SPORKIN. I am not aware of what I call the background music here if that is what it is. I am not aware of any of the background music of any of these, on any of these matters.

Mr. NIELDS. I think the record also reflects that as of the December 7th and December 8th meetings this initiative was at least temporarily off.

Mr. SPORKIN. I can go further than that, and I think it is an interesting fact that between November 25th when I got into that, brought into the project, until February the 7th, when I left, it is my understanding that not a single missile was either sold or transferred to the Iranians. Let me just think of that. During that entire period it was zero.

Mr. NIELDS. I take it that you did attend a meeting with Oliver North on December 9th.

Mr. **Sporkin**. Yes.

Mr. **Nields**. That would be 1 day after he returned.

Mr. **Sporkin**. Right. Again, I don't know whether he had told me he had come back. That could be.

Mr. **Nields**. Then I think that your attention has already been directed to exhibit 5, which is a document prepared by Oliver North on December 9th, or at least it is dated December 9th, and I think I can state for the record that the early part of the memo summarizes prior events, discusses the possibility of proceeding with the initiative on a basis of having Israel transfer arms to Iran, and the United States replenishing them. And then at the end of the third page of the memo it says there is a fifth option which has not yet been discussed.

"We could, with an appropriate covert action Finding, commence deliveries ourselves using Secord as our conduit to control Ghorbanifar and delivery operations," and so on. I take it you have no recollection of discussing with North on December 9th that this would be a lawful way of continuing the initiative and would solve problems involved if Israel transfers its stocks directly to Iran.

Mr. **Sporkin**. Well, I don't think I can answer the question, yes or no. The point I am saying is that I do believe we discussed on that meeting the fact of DOD doing it. I don't remember this elaborate detail. I don't remember the name, Secord, coming up. So that is all I can tell you.

Mr. **Nields**. But it is consistent with your judgment as a lawyer that proceeding with a Finding and direct sales by this country to Iran would be the best way to do it and would get around the legal obstacles which would be involved if Israel sold.

Mr. **Sporkin**. Oh, yes, there is no question in my mind the replenishment option was not a very good option.

Mr. **Nields**. And that the proposal, this fifth option on North's memo of December 9th, which was done the same day as you met with him, would meet your legal approval?

Mr. **Sporkin**. Well, again, I don't have the details of how he was going to do this thing, but if it were—well, no, you are saying meet my legal approval. If you realize what I did, is that when it came down to the end, crunch time, I was going to rely on the experts. So I am not ready—in other words, while I thought that was a viable option, I don't think this was the time to become an adventurer.

So I was going to be careful, I was going to raise the issue. I was going to explore it completely, but I was going to make sure that the technicians agreed that that was viable.

Mr. **Nields**. And eventually they did?

Mr. **Sporkin**. No, they did not. They went through the economy method. They rejected the DOD option. Isn't that what you are talking about, the DOD option?

Mr. **Nields**. I don't believe this memo makes any reference to DOD.

Mr. **Sporkin**. Wait, wait. You might be right. What page are you on now?

Mr. **Nields**. Page 3 of exhibit 5.

Mr. **Sporkin**. The only reason I raised it is what does the fifth option mean? I mean the first option has always been—or one of the options has always been the economy, so I assume he is coming up with some idea here that doesn't fall within what we have been discussing, so I don't know what he has in mind as a fifth option.

Mr. NIELDS. The options I will just state for the record. On this memorandum the options that precede the fifth option are options all of which involve sales by Israel to Iran and replenishment by the United States. I take it, again, in summary, you at least at some point in time saw legal obstacles to using that kind of an option.

Mr. SPORKIN. That is correct.

Mr. NIELDS. And you eventually——

Mr. SPORKIN. Well, legal and also other—well legal options, yes, I think that is fair.

Mr. NIELDS. And you eventually concluded that the appropriate legal way to do it was through a covert action Finding and sales directly to Iran?

Mr. SPORKIN. Through the Economy Act and through the CIA. That is correct.

Mr. NIELDS. You don't recall specifically whether you discussed that with Oliver North on December 9th?

Mr. SPORKIN. I can't tell you that.

Mr. NIELDS. But the description of the fifth option is consistent with your eventual legal judgment as to how it ought to be done?

Mr. SPORKIN. Well, again I am not going to buy under that one, not because I don't think what you are saying is accurate, but because I am still concerned by a fifth option, which—it has to be different than the Economy Act, and I don't know. I can't conceive that he is trying to reinvent the wheel. I mean that he is trying to rephrase or reparaphrase the Economy Act. There would be no need for him to do it because I think the Economy Act is on the table. It has always been on the table.

So that is what I am concerned about talking about a fifth option if all he is doing is the Economy Act option. He might have some other thing here I don't understand we could cover. You don't know where the source is, do you, under this option? You don't know where the source of the weapons are going to be under this option. That, I think, is the critical thing that is missing here.

Do you know where the source is?

Mr. NIELDS. I believe the document would indicate that it would be the United States selling direct to Iran.

Mr. SPORKIN. Then that is nothing more than the Economy Act, yes.

Mr. NIELDS. So that would be consistent with your eventual judgment?

Mr. SPORKIN. Well, if that is what he is doing, yes.

Mr. NIELDS. In any event the issue cropped up again in early January.

Mr. SPORKIN. Yes.

Mr. NIELDS. And at that time there was discussion of an expanded or some kind of a new Finding.

Mr. SPORKIN. Right.

Mr. NIELDS. Now, if you will turn to exhibit no. 10, and I think you have told us that you cannot specifically identify this as a document which was shown to you at the time.

Mr. **Sporkin**. That is right. I don't recall seeing that recommendation part in it. That is the only thing that is giving me trouble. If it were, I will stand corrected, but I don't recall seeing that.

Mr. **Nields**. In any event, it is a document that we have obtained, has been provided to us by the White House and it is a memorandum relating to a covert action Finding regarding Iran.

Mr. **Sporkin**. That is correct.

Mr. **Nields**. At the bottom of the first page of the document it states with respect to the Finding,

> As described by the Prime Minister's emissary, the only requirement the Israelis have is an assurance that they will be allowed to purchase United States replenishments for the stocks that they sell to Iran. Since the Israeli sales are technically a violation of our Arms Export Control Act embargo for Iran, a Presidential Covert Action Finding is required in order for us to allow the Israeli sales to proceed or for our subsequent replenishment sales.

So that at this time it is still contemplated even pursuant to a new Finding that sales would be made by Israel and that we would replenish. I take it based on your prior testimony that you would have substantial legal difficulties with such a method of operation.

Mr. **Sporkin**. Yes. I would have difficulties with that, that's correct, Mr. Nields.

Mr. **Nields**. In fact you had some research done on this very question shortly thereafter?

Mr. **Sporkin**. Yes, that's correct.

Mr. **Nields**. And the conclusion that you got from the research is contained in exhibit 13.

Mr. **Sporkin**. Are you sure of that? My 13 is a Finding. Oh, you are talking about the attachment? Paragraph 3?

Mr. **Nields**. I'm talking about the whole document. The first paragraph of paragraph 13 says that there is legal authority for a Finding——

Mr. **Sporkin**. You are right.

Mr. **Nields**. —and use of the Economy Act?

Mr. **Sporkin**. You're right, yes.

Mr. **Nields**. The third paragraph says

> One problem could arise, however, if the equipment to be transferred constitutes articles the U.S. has provided to a second country through the Foreign Assistance Arms Export Control Act.

The memo at Tab D indicates a country may use material it has received through such U.S. foreign aid for self-defense and may retransfer it only in certain limited circumstances that require U.S. consent, notice to Congress, and the eligibility of the third country recipient for U.S. aid. Terrorist activities, among other things, can disqualify a potential recipient.

So that the writer of this memorandum at your request based on legal research is saying that even with a covert action Finding there are substantial legal barriers to permitting Israel to sell previously acquired U.S. munitions and then replenishing Israeli stocks. Am I correct?

Mr. **Sporkin**. I think that an argument could be made that you can override specific statutes by a covert Finding. I don't think that was my concern. What my concern was, Mr. Nields, is that how do you go back and replenish those stocks? That was my concern. And as my recollection was I asked, I said, is this a one-time deal? Is Israel going to need these replenishments? If they are, that's the thing that concerned me because that would involve telling something to somebody that might not be accurate. That was my concern.

If they wanted to do it one time I think you could probably cover it by a Finding, but if they wanted to get the replenishment what are you going to tell the U.S. Government, the U.S. Congress, as to why you need a replenishment? How are you going to get it replenished? That was my concern.

Mr. NIELDS. But that apparently was not the concern of the person writing the memo who had done the research?

Mr. SPORKIN. Yes, I see he has a concern, but you know I sometimes read and digest and understand or what I consider to get the heart of the problem out of it and I believe that's what my concern was. Because you got to realize that a covert, that a Presidential Finding is a very powerful Finding, and it is designed to be so. It's in the interest of our country that you can do these things. Otherwise, you would do away with it.

I don't think there is anybody here who wants to do away with that. What you have got to be able to do is override a lot of these other provisions which really don't have application to the U.S. Government, you see. But the problem, is what do you do now when you want to replenish, as in this case? You have got real problems. And I was not going to sign off or buy off on that.

Mr. NIELDS. Just so the record is clear, the document which is exhibit 13 states that the problem arises when the foreign country transfers to a third country such as Iran material previously acquired under arms export control or foreign military sales.

Mr. SPORKIN. Yes.

Mr. NIELDS. That's what the memo says?

Mr. SPORKIN. Yes.

Mr. NIELDS. I think we had testimony here yesterday——

Mr. SPORKIN. That's confirming the point I'm making because this would not be acquired—well, I see what you are saying. Go ahead. I'm sorry.

Mr. NIELDS. And we had testimony yesterday from Department of Defense people that where there had been sales under foreign military sales or Arms Export Control Act, they are governed by agreements and by law and may not be transferred except under certain circumstances.

Mr. SPORKIN. I'm not going to question their judgment. Obviously that's better than mine.

Mr. NIELDS. And the underlying legal research——

Mr. SPORKIN. In their area, in their area.

Mr. NIELDS. And the underlying legal research is contained at exhibit 20.

Mr. SPORKIN. Yes. That's correct.

Mr. NIELDS. And that was research which was done at your request in order to address this very issue.

Mr. SPORKIN. That's correct.

Mr. NIELDS. And the person writing the memorandum states in the first sentence, "A question has arisen under what circumstances a recipient of U.S. foreign military assistance can transfer military equipment provided through the foreign assistance mechanism to a third country." Now that person doesn't mention a third country but this has to do with the proposed transfer by Israel to Iran of its existing stocks. And the person analyzes both possible statutes under which Israel could have acquired U.S. military equipment and concludes that there are problems with the retransfer in both cases. And among other problems the writer of this memorandum indicates that a second country such as Israel cannot transfer to a third country such as Iran unless that third country provides a written commitment that it will not in turn retransfer.

Mr. SPORKIN. Mr. Nields, I'm clear as a bell that this could not be done in any way pursuant to any of those acts. The only area that I have any question is what is the relationship between those acts and a covert Finding. That is the point that I think—that is the only reservation I have. But even under covert Finding what I'm saying to you, I have problems.

Mr. NIELDS. That's what I understood you to say, and I take it that that's based in part on the memorandum that was written to you at your request, which is exhibit 13.

Mr. SPORKIN. Well, yes, it is on that in part and part of just good common sense sometimes.

Mr. NIELDS. Now, in any event, it was your conclusion, as I understand it, and advice, after receiving these memoranda, that the transaction could not go forward as a sale by Israel to Iran and a replenishment by this country of Israeli stocks.

Mr. SPORKIN. I believe that's so, yes.

Mr. NIELDS. Nonetheless, there appears to be some continuing evidence that such a method of operation continued to be under consideration.

Mr. SPORKIN. I think the record would bear you out on that.

Mr. NIELDS. And for example exhibit no. 14, which I think you have already gone over, dated the 13th of January with the words "DCI" written above it indicates that the Israelis are moving ahead on their TOWs for hostage deal with the Iranians and it then refers to two options, one of which contemplates that, and I'm reading now from the second paragraph, "The Israelis would replace basic TOWs by buying the improved version."

The first sentence says, "Under this option, the idea was that the Israelis would buy the improved version of the TOWs and ship to the Iranians the basic TOWs they now have."

And then if you will turn to exhibit 17 which I think you have testified is the memo of a conversation you had with one of your associate general counsel, he states, and this is dated the 15th of January, he states in the middle of the second paragraph,

> We had been considering since 10 January a proposal to provide missiles to Israel that would, in part, be to secure the return of U.S. citizens held by or under the control of Iran. As originally explained, Israel would keep the newer missiles supplied by us and give Iran older missiles currently held by Israel. According to the General Counsel, this activity was authorized by a signed Presidential Finding which he worked out with Oliver North on 10-11 January 1986.

Mr. SPORKIN. I don't know what he is referring to there because there is no such Finding.

Mr. NIELDS. There was a Finding, was there not, on a somewhat earlier date, January 6th?

Mr. **Sporkin**. Right. But I don't think that that was again, unless—I am trying to get my own recollection, but my recollection, if you look at my memorandum of that very date on January 15th, that is not an option. The option--there is only two options, one the Economy Act or two, DOD?

Mr. **Nields**. In your mind it is not an option but apparently some others are still considering it.

Mr. **Sporkin**. Right, right.

Mr. **Nields**. Indeed at page B-67 of the Tower Board Report, and I have made a copy of that available to you, there is an excerpt of a PROF message which I can tell you is dated the 15th of January, written by Oliver North, which states as follows: "Casey has called urging that you convene"—the memo was written to Admiral Poindexter I should say?

Mr. **Sporkin**. Is this B-67?

Mr. **Nields**. B-67. Left-hand column, three-quarters of the way down.

Mr. **Sporkin**. Under 6, the United States sells Iran a thousand TOW missiles.

Mr. **Nields**. Yes. It's the indented language.

Mr. **Sporkin**. OK.

Mr. **Nields**. It says, "In accordance with your direction, met with Casey last night after Weinberger's speech at Fort McNair. Casey then tried to contact Cap but he had already departed. Casey has called urging that you convene a meeting"—I don't understand the shorthand here—I guess with him and Cap—"as soon as possible so that we can move on. Casey's view is that Cap will continue to create roadblocks until he is told by you that the President wants this to move now and that Cap will have to make it work. Casey points out that we have now gone through 3 different methodologies in an effort to satisfy Cap's concerns and that no matter what we do there is always a new objection."

Now, do you know precisely what the three methodologies were that Cap Weinberger had objected to?

Mr. **Sporkin**. No. I was not brought in on that. I didn't know anything about that.

Mr. **Nields**. But apparently there were some differing proposals and legal objections or some kind of objections had been raised by the Secretary of Defense.

Mr. **Sporkin**. Yes.

Mr. **Nields**. At the next page of the Tower Report, a later PROF note of the same day states—also from North to Poindexter—states "in accordance with instructions, have invited Secretary Weinberger to meeting with Casey in your office at 1700 hours on Thursday."

Thursday is the 16th of January and I take it you, in fact, attended a meeting with Secretary Weinberger, Casey, Poindexter, and others?

Mr. **Sporkin**. The Attorney General.

Mr. **Nields**. And the Attorney General, at about 5 in the afternoon?

Mr. **Sporkin**. Oh no, no.

Mr. **Nields**. On the 16th?

Mr. **Sporkin**. No. This was much later.

Mr. **Nields**. In any event, it was the afternoon of the 16th?

Mr. **Sporkin**. Evening.

Mr. **Nields**. Evening of the 16th?

Mr. **Sporkin**. That is correct.

Mr. **Nields**. At that time, I take it that the proposal that was on the table was the one which you believed was the preferable one, namely an Economy Act transfer from the Department of Defense to the CIA and then a transfer by the CIA direct to Iran pursuant to a Finding?

Mr. **Sporkin**. That is correct.

Mr. **Nields**. And at the end of that meeting, the Secretary of Defense said he wanted to run that past his legal people and you later learned the following day that he had done so, and that he had no objection to the transaction as you proposed it?

Mr. **Sporkin**. That is correct. Not as I had proposed it, but as was discussed at that meeting, yes.

Mr. **Nields**. Which was in accordance with your legal judgment?

Mr. **Sporkin**. That is correct.

Mr. **Nields**. I think if you turn to exhibit 19, which is a cover memo to the covert action Finding regarding Iran of January 17, which was actually signed, it states at the bottom of the first page,

> as described by the Prime Minister's emissary, the only requirement the Israelis have is an assurance that they will be allowed to purchase United States replenishments for the stocks that they sell to Iran. We have researched the legal problems of Israelis selling United States manufactured arms to Iran. Because of the requirement in U.S. law for recipients of U.S. arms to notify the U.S. Government of transfers to third countries, I do not recommend that you agree with the specific details of the Israeli plan.
>
> However, there is another possibility. Some time ago, Attorney General William French Smith determined that under an appropriate Finding, you could authorize the CIA to sell arms to countries outside of the provisions of the laws and reporting requirements for foreign military sales. The objectives of the Israeli plan could be met if the CIA, using authorized agent as necessary, purchased arms from the Department of Defense under the Economy Act and then transferred them to Iran directly after receiving appropriate payment from Iran.

Mr. **Sporkin**. That is it.

Mr. **Nields**. That is it. That describes the history of the proposals, why they were rejected, and the proposal that was eventually accepted?

Mr. **Sporkin**. I think it seems to me to be as accurate as I can recall it. It is all subject to my recollection, but that seems accurate.

Mr. **Nields**. Mr. Chairman, I have no further questions.

Chairman **Inouye**. Mr. Van Cleve.

Mr. **Van Cleve**. Thank you, Mr. Chairman.

In view of the hour, Judge Sporkin, I am going to try to be brief.

Mr. **Sporkin**. Thank you.

Mr. **Van Cleve**. I would like to direct your attention, to begin with, to the Finding that you drafted in November of 1985.

Mr. **Sporkin**. Yes.

Mr. **Van Cleve**. You testified earlier today that you were briefed in November 1985 on a shipment of HAWK missiles in which the CIA had provided transportation and communication assistance, is that correct?

Mr. **Sporkin**. Yes. You used the word HAWK. I just can't recall that term being used. Other than that, it is a correct statement.

Mr. Van Cleve. My first question is, were you also briefed at that time on the fact that in August and September of 1985, the Government of Israel had shipped TOW missiles to Iran?

Mr. Sporkin. I do not recall that.

Mr. Van Cleve. I take it then that your November 1985 Finding was not intended to cover those shipments?

Mr. Sporkin. It was not—obviously, if I hadn't been briefed, I couldn't have—it was not my intention.

Mr. Van Cleve. The reason I asked the question, Judge, is that your November 1985 Finding contains language which talks about ratification of prior activity on the part of the U.S. Government officials. I want the record to be clear that you did not intend by that language to include acts on which you had not been briefed, is that correct?

Mr. Sporkin. That is correct. Well, that is too easy. Actually, I have not been briefed. I mean, I can't be that narrowly focused. There might have been something that somebody omitted, but I think within the concept that we are talking about—understand what I am saying to you?

Mr. Van Cleve. I do, but let's just be sure that——

Mr. Sporkin. I mean just because somebody hasn't told me a specific item but it flowed from the rest of it that that would, I assume, be covered. I don't want to make it as narrow as you are suggesting.

Mr. Van Cleve. My recollection is——

Mr. Sporkin. It has nothing to do with something that was taking place in the summer I did not know about.

Mr. Van Cleve. You were not told at that time there had been any such activity, is that correct?

Mr. Sporkin. That is correct. I have no recollection of being told about it.

Mr. Van Cleve. So whatever the ratification language covered, it would not cover that prior transaction?

Mr. Sporkin. In my view it would not. That was not the legislative history.

Mr. Van Cleve. The purpose of the ratification language was to give retroactive approval to what had already been done without advance approval, is that right?

Mr. Sporkin. No, sir. That is not right. I think that people are using that term which is—using the term retroactive, and I use the term ratification. I think if you look at that, and my prior testimony, it is, the concept is to confirm that this was what was authorized; and I think when we use the concept of a retroactivity, it is a little bit bothersome to me. I think it is a cause of a great deal of undue criticism which I don't believe is warranted.

Mr. Van Cleve. You served for many years as an attorney at the Securities and Exchange Commission, correct?

Mr. Sporkin. That is correct.

Mr. Van Cleve. You are therefore quite familiar with general corporation law and practice; am I right?

Mr. Sporkin. Yes, sir.

Mr. Van Cleve. The concept of ratification is frequently used to approve corporate acts which were done without initial approval, correct?

Mr. SPORKIN. But were done—there are several ways of ratifying. You can ratify something that has been authorized. And, however, that it is an authorized act but that the formality of the act has not been done. I think I was using it in a—in that kind of a concept, that I had no belief that this wasn't an authorized activity. This is what I was trying to get—the focus on top—were we authorized to do this? That is what would have come back, either yes, I ratified, that you were authorized, or not.

Mr. VAN CLEVE. Was it represented to you during the briefing, Judge Sporkin, that the President of the United States had advance knowledge of the HAWK shipments?

Mr. SPORKIN. No, sir.

Mr. VAN CLEVE. So the purpose of your ratification proposal, if I understand it, was to make sure that the President was willing to take responsibility for what had happened; is that correct?

Mr. SPORKIN. Well, willing to take respon—and this was somebody carrying out his orders. Now, whether this is what he wanted, this is what he wanted done. That was the way I was—I was looking at it at that time.

Let me see something here.

Again, in my—before the SSCI, page 93, in an answer to Senator Nunn, and it says, "And be in compliance with law?", my answer: "Yes, yes. If the President orally tells somebody to do something or authorizes an act, I think he ought to be able to 3 weeks later finish up the paperwork and say I ratify this."

Mr. VAN CLEVE. I guess that is my point, Judge. No one told you, did they, that the President had orally authorized this act?

Mr. SPORKIN. No.

Mr. VAN CLEVE. And you didn't know at the time whether or not he in fact knew——

Mr. SPORKIN. That is right.

Mr. VAN CLEVE. —before the CIA got involved, that it was going to get involved, did you?

Mr. SPORKIN. I didn't know what?

Mr. VAN CLEVE. You were not told that the President had been given advance notice or had any advance knowledge of the CIA's action, were you?

Mr. SPORKIN. That is right.

Mr. VAN CLEVE. So you weren't in a position where you were simply finishing up the paperwork, were you?

Mr. SPORKIN. Yes, but I think you are misconstruing what I am telling you. What I am saying to you is when that item is passed to the President, he is either going to say, "I ratify it", or "I don't ratify it." "Is this something that I want? Is this something that I have authorized, or is it something that I have not authorized?" And that's what he's going to have to focus on. Not that I was told that.

Mr. VAN CLEVE. I understand that. My point is that there is a difference between being told something before the fact and being told something after the fact.

Mr. SPORKIN. That is correct.

Mr. VAN CLEVE. Now, as far as you knew, the President had not been told before the fact, had he?

Mr. SPORKIN. Absolutely, I did not know that.

Mr. **Van Cleve**. Let me change subjects with you, Judge. I would like to ask just a couple of brief questions to follow up on Mr. Nields' line of questioning with respect to the mechanism that was used for the Iran arms sales.

Basically, there were two mechanisms that were used. In 1985, the shipments occurred through the first mechanism, which was that Israel sold weapons out of its stocks to Iran and then it sought replenishment for those weapons.

The second mechanism was that the United States made direct sales from its stocks to the Government of Iran.

Now, the basic question, it seems to me, is whether or not both of those mechanisms could be legally covered under a covert action Finding.

Pretty clearly, the second mechanism, that is, the direct sale by the United States to Iran, can be covered by a covert action Finding.

Mr. **Sporkin**. I believe so.

Mr. **Van Cleve**. And I think Congress is fully aware that that mechanism existed and had been used in the past and had—it had been so notified by the CIA; is that correct?

Mr. **Sporkin**. Right.

Mr. **Van Cleve**. So the key question here is really whether the first mechanism could be covered by a covert action Finding?

Mr. **Sporkin**. Right.

Mr. **Van Cleve**. And on that point, I want to be sure that I understand your testimony. Is it your view that there are no circumstances under which a replenishment to Israel after a sale by Israel out of its stocks could be covered by a covert action Finding.

Let me make sure—let me just sharpen that question.

I draw a distinction between a situation in which the Israeli stocks are, in fact, upgraded by the replenishment which was, in fact, what was being discussed here and that clearly would be a problem under the Arms Export Control Act.

It could not be covered by a Finding. But if there were a situation where there were a simple replenishment of whatever was taken out of the stocks, my question is couldn't that be covered by a Finding?

Mr. **Sporkin**. Again, you are getting me into a legal determination. I am not prepared to say that somebody would not give you an opinion or maybe I in a weak moment would even give such an opinion. But it would have to be very weak.

What I am saying to you is it is not the way to do it. Because it causes a lot of problems. It causes problems with our allies, it causes problems with our Congress, it causes problems with everybody. You are jeopardizing a relationship. It is not the way to do it.

Mr. **Van Cleve**. Judge, I understood your testimony on that point. I also understood you to say that clearly the safer legal course is the course that was adopted in January.

Mr. **Sporkin**. Right.

Mr. **Van Cleve**. But what I believe—what I believe is in question here is whether or not it could—the transactions that we know did occur could, in fact, have been covered by the Finding.

Mr. **Sporkin**. Well, you know, I guess what you are saying, you know, I would have to really go back and research every conceivable aspect of it. I am giving you—a lot of times you come up with a conclusion that you get a feel about something.

You understand what the law is. You understand where it is going, and you come up with a feel.

This one bothered me, that aspect. I can't do it any better than that. I am not going to tell you it is legal, it is not legal. I am giving you what my feel is.

My feel is that you are jeopardizing the relationship. You are jeopardizing a lot of things, and they ought not to have them in this kind of a two-party transaction.

I think that was my—that was my view at that time buttressed by the fact that you did have a whole lot more legal requirements than you had under the other provisions.

As soon as you have more legal requirements, you always try to go through the path with the fewer legal requirements. I don't think I need 30 years at the bar to understand that.

This one caused all kinds of legal requirements that had to be overridden, to get to where you want to get. That is a problem.

You may well be right that it is legal. I think I even saw a memorandum, a legal memorandum, an opinion that says it was legal. I think the Department of Justice. I am not going to quarrel with that.

Mr. VAN CLEVE. I have no further questions, Mr. Chairman.

Thank you, Judge.

Chairman INOUYE. Thank you.

The hearing will stand in recess until 2:30.

Judge, will you come back again sir?

Mr. SPORKIN. OK.

[Whereupon, at 12:15 p.m., the Select Committees recessed, to reconvene at 2:30 p.m., the same day.]

## AFTERNOON SESSION

The Select Committees met, pursuant to recess, at 2:30 p.m., in room 325, Russell Senate Office Building, Hon. Daniel K. Inouye (chairman of the Senate Select Committee) and Hon. Lee H. Hamilton (chairman of the House Select Committee) presiding.

Chairman INOUYE. The hearing will please come to order.

The Chair recognizes the gentleman from Alabama, Senator Heflin.

Mr. HEFLIN. Judge Sporkin, on exhibit 4, which is up on the board there, that date of 7 May 1987, is a date, as I understand it, that represents the time that the exhibit was declassified rather than anything pertaining to the date of the instrument itself. Is that your understanding, too?

Mr. SPORKIN. I will accept that, Senator.

Mr. HEFLIN. All right. So now, as I understand it from your testimony, that this Finding that you prepared, which is exhibit 4, came when you learned that there had been a CIA proprietary involved in regards to the shipment of some arms that went to Israel and then to Iran. Is that a correct statement?

Mr. SPORKIN. That is correct.

Mr. HEFLIN. Do you recall, how did you first learn of this?

Mr. **Sporkin**. I learned from the Deputy Director of Central Intelligence who called me and told me that he wanted my views on an extraordinarily sensitive operation. I don't know if he used the word extraordinary, but that is the way I understood it.

Mr. **Heflin**. Did you then meet with him and discuss the factual matters that were involved?

Mr. **Sporkin**. No. What happened was that he said that he was going to send over two people to brief me on the subject.

Mr. **Heflin**. And they came and they briefed you?

Mr. **Sporkin**. That is correct.

Mr. **Heflin**. All right, sir. Now, after that, did you establish a date in connection with that?

Mr. **Sporkin**. Yes. I think we have established it as November 25, 1985.

Mr. **Heflin**. All right, sir.

After they briefed you, did you prepare that document?

Mr. **Sporkin**. Yes, I did, Senator.

Mr. **Heflin**. Were any drafts prepared of it or was this an initial one draft instrument, or would you give us the details pertaining to how it was drafted?

Mr. **Sporkin**. Senator, I think your staff has done an excellent job, as usual, and they uncovered a draft which is exhibit 1. And that draft apparently is the dictation that I gave to my secretary, and from that, a staff member took that draft and put it into form.

Mr. **Heflin**. And then what did you do with it next?

Mr. **Sporkin**. What happened next was that I took the draft the next day. It was late at night, and I took the draft the next day to the Deputy Director after advising him the night before that I would be coming over with my recommendation with respect to the problem that he had requested my advice on.

Mr. **Heflin**. And then did you discuss it with him the next day?

Mr. **Sporkin**. Yes, I had a brief discussion with him and I said this is my recommendation, here are the papers to implement it.

Mr. **Heflin**. All right, sir. And he took the Finding?

Mr. **Sporkin**. That is right.

Mr. **Heflin**. All right, sir.

Mr. **Sporkin**. And he agreed with it, he was very, very pleased with it.

Mr. **Heflin**. Do you know whether or not it was signed by the President?

Mr. **Sporkin**. I do not know until this day, Senator, whether it was actually signed.

Mr. **Heflin**. Well, you had some information, at least the Tower Report indicates that you gave some testimony that you had heard from Colonel North that it had been signed, or that a document, and I suppose that you assumed that that document was referring to this?

Mr. **Sporkin**. Well, what happened was, you are right, I did believe it was signed, and the point I was making is I don't have the recollection that somebody told me that it was signed. What I do know is that one individual after this matter broke in the press, a lawyer that worked for me, advised me that when he was with Colonel North one day, he said, take a message back to Stan stating that that matter, the President had signed that matter, or that document. And that is what his recollection was, and that he had come back and told me that.

I, from time to time in my life, have had what I used to call bathroom conferences where somebody would tell you that they said it to you. And you would say where was it, what was the time, we were in the bathroom together. And those are the times I can't remember. I just——

Mr. HEFLIN. Well, from the record viewpoint, there is some——

Mr. SPORKIN. My mind was on other things.

Mr. HEFLIN. From the record viewpoint, there is some indication the Deputy Director, Mr. McMahon, was under the impression that that instrument was signed by the President?

Mr. SPORKIN. Yes. I saw that document and I would think if it hadn't been signed he would have told me.

Mr. HEFLIN. Who was the custodian of the Findings of the President as it applied to the CIA?

Mr. SPORKIN. Well, I am sure we had a custodian at the Agency with respect to Findings. With respect to the President, I guess it would have been somewhere in the NSC that would have been the custodian of these Findings.

Mr. HEFLIN. All right, sir. Now, as I understand it, the necessity for this Finding was that the CIA had participated—a proprietary had participated in the arms sales that involved Israel to Iran which occurred around November 25. That was the third incident of arms shipments to Iran under a so-called replenishment approach by which Israel would send and we were to replenish.

The first one being on August 30th, the second being September 14th and the this on November 25th.

Mr. SPORKIN. Was that the 25th or 23d, Senator?

Mr. HEFLIN. Well, my date is, I have it as the 25th. It may be—it was the 23d.

Mr. SPORKIN. Yes.

Mr. HEFLIN. But in reviewing this document, the reason for the Findings and the authority dealing with the deals with private parties in their attempt to obtain release of Americans held hostage in the Mideast. Is there anything in the document there that deals with endeavoring to develop some type of a dialogue with the moderate element in Iran?

Mr. SPORKIN. No, sir.

Mr. HEFLIN. Was anything ever mentioned to you about the sale of weapons through Israel and the replenishment of those having to do with the opening of a moderate relationship with Iran?

Mr. SPORKIN. Not at that time, Senator.

Mr. HEFLIN. That was after three different shipments of arms had taken place?

Mr. SPORKIN. I didn't know that, Senator.

Mr. HEFLIN. Well, if those dates are correct——

Mr. SPORKIN. The only thing I knew was we had been involved in an activity within I think it was 48 hours of the November 25th date. If you are right on the November 25th date, then it is within 12 hours, it is within a very short period of time. That is all I knew. I didn't know anything about what took place in August or in September.

Mr. **Heflin**. Well, in that Finding that you prepared there is nothing in there in regards to any potential intervention of the Soviet Union into the Mideast either, is it?

Mr. **Sporkin**. No.

Mr. **Heflin**. So do I interpret your testimony to be that you had not heard of any effort when you prepared this document to create a dialogue or a linkage with any moderate element in Iran?

Mr. **Sporkin**. You are absolutely correct, sir.

Mr. **Heflin**. All right, sir.

Now, at the same time that this occurred, did you have any understanding that General Secord was involved in it or tied to this proprietary in any way?

Mr. **Sporkin**. I have no recollection of that.

Mr. **Heflin**. You have no recollection of mentioning being briefed by anyone pertaining to the part that——

Mr. **Sporkin**. No, I just don't have any recollection at all on that, and I think if that name had come up, I would have remembered it.

Mr. **Heflin**. You have known General Secord for several years?

Mr. **Sporkin**. Well, I don't want to—I have known about him, and I met him prior to that on one occasion.

Mr. **Heflin**. All right, sir.

Now, at the time was there any indication that the proprietary that was used to go to Israel and then to Iran was involved in any way with Central America at that time?

Mr. **Sporkin**. I just can't recall at this date, Senator. That possibly could be, but I can't recall that.

Mr. **Heflin**. All right, sir.

Now, to another subject. You testified about the Boland Amendment, and what you did pertaining to it?

Mr. **Sporkin**. Right.

Mr. **Heflin**. In regards to the first Boland Amendment, what did you do pertaining to various Station Chiefs in Central America pertaining to the Boland Amendment, the first Boland Amendment?

Mr. **Sporkin**. With respect to the first Boland Amendment, Senator, my recollection is that the prohibition, as I recall—was it against, any steps or acts in connection with the overthrow of the government? I think that was the first Boland Amendment. I saw that as a potential problem. I think it was language that had been worked out so that you could, that the Agency could still take steps to interdict arms going from, I think it was Nicaragua to El Salvador.

This all came at the end of a session, as I recall, end of a session of the Congress, and just when everybody was going home and everybody was breathing a sigh of relief, I brought everybody together and I said, we've got to counsel our clients to show them how they are going to comply with that law. If I could almost predict what was going to happen, I wish I had written it because I think you would see that I could almost predict not these sessions, but something like this in which we were going to be, the Agency was going to be questioned as to whether it complied with the Boland Amendment.

So I said we've got to take steps to make sure that we comply. And what we did was prepare a compliance memorandum which was to be sent to the, not only the Station Chiefs but I think it was to go beyond that, I think to go to the Resistance people, too, the leaders of the Resistance as to what they could and what they could not do. This went through the Director, it went through the Deputy Director for Operations.

Mr. HEFLIN. All right, sir. Were you consulted or were you involved in any way pertaining to the mining of the seas around Nicaragua?

Mr. SPORKIN. No, sir. I don't have any recollection of being brought in other than when this thing broke in the press.

Mr. HEFLIN. But prior to the breaking in the press you have no recollection——

Mr. SPORKIN. Absolutely no recollection.

Mr. HEFLIN. —of being consulted at all pertaining to that?

Mr. SPORKIN. That is correct.

Mr. HEFLIN. So when the second Boland Amendment was adopted, which prohibited directly or indirectly the CIA or any entity or Agency involved in intelligence activities from expending any money, what did you do relative to that in regards to counseling the various Station Chiefs and other officials of the CIA?

Mr. SPORKIN. What I did on that was again I guess telling everybody they had to be very, very careful. We watched it very closely and I was giving some very stiff advice. There did come a problem when we had the manual, as you recall. Subsequent to that, what we did was to tighten it up even more, by adopting, I recommended a concept that we used in the securities industry which was a compliance officer and we placed a compliance officer right in the Central American Task Force. And I had him and then I had a backup, another person who was working with him to make sure that we were on top of the matter in reviewing documents, reviewing all the traffic, the cable traffic on a daily basis.

Mr. HEFLIN. When the humanitarian aid was voted, what did you do pertaining to counseling various officials on that?

Mr. SPORKIN. Well, they came to me, I remember this, and they said what part can they handle? And I said, none. We are going to be out of this. We are not going to touch it with a 10 foot pole, and I think they complied with that. Let somebody else deal with that problem because it's going to be misunderstood.

Mr. HEFLIN. And so that was not a CIA operation?

Mr. SPORKIN. Well, there was a question whether we should be in it, and my advice was we should be out of it.

Mr. HEFLIN. All right. So now when the law was changed and allowed the activity for the State Department to solicit third parties and there were certain provisions about advice and communications that would be allowed, did you then study this and give advice to the officials of the CIA?

Mr. SPORKIN. I believe I did.

Mr. HEFLIN. What do you remember doing on that?

Mr. SPORKIN. Well, I think whatever it was it was very conservative advice.

Mr. HEFLIN. And at all times your advice was to try to comply with the letter and the spirit of the law?

Mr. SPORKIN. Yes. Yes.

That light went on, I don't know what that means.

Mr. **Heflin**. That's for me.

Mr. **Sporkin**. Oh, I see. I was feeling good for a minute here.

Mr. **Heflin**. That's unusual for a judge to see those.

Mr. **Sporkin**. As a former Justice I'm sure you know that.

I'm sorry, where was I? Can I just——

Mr. **Heflin**. We were talking about advice and the changes in the law and what you did on that.

Mr. **Sporkin**. I know, but it was—what was the last——

Mr. **Heflin**. Well, while you cogitate, my time will be gone.

Mr. **Sporkin**. I don't want to do that.

Mr. **Heflin**. I ask you this as one final question. Did you prepare a memo on fundraising activities that were permitted by Boland and did you conclude the CIA could or could not be involved?

Mr. **Sporkin**. I think—is that the solicitation? Are you talking about solicitation?

Mr. **Heflin**. Solicitation, fundraising.

Mr. **Sporkin**. I think I did, and my point was that whatever I said was very, very narrow. I know what I was saying before was the spirit. What I was saying to you, the example was we had obtained authorization to send a plane down to Central America, and in the middle of the plane, before it got down the law changed and even though we had the authority and everything else to do it, I told him not to do it. That's the spirit question that we mentioned before. And the reason I said was that you could do it under one circumstance, go back up to the Hill and tell them what you are going to do. I think eventually they did and I think they had somebody fly up to take it down. That was the spirit.

On the other question Senator I recall whatever I did was very narrow as to what we could and could not do.

Mr. **Heflin**. Do you have a copy of that memorandum that you prepared?

Mr. **Sporkin**. I would not have that. I did not take anything with me.

Mr. **Heflin**. That's all, Mr. Chairman.

Chairman **Inouye**. Congressman Cheney.

Mr. **Cheney**. Thank you, Mr. Chairman.

I would like to shift gears if I might for a moment and focus upon your relationship with Mr. Casey. Obviously you had a long and fairly close professional relationship in the sense that you served him while he was at the SEC, isn't that correct?

Mr. **Sporkin**. That is absolutely correct.

Mr. **Cheney**. How many years would you say you have known——

Mr. **Sporkin**. Well, I met him in 1972 I think.

Mr. **Cheney**. So roughly—almost 15 years?

Mr. **Sporkin**. That's correct.

Mr. **Cheney**. And he brought you to the CIA as General Counsel?

Mr. **Sporkin**. Yes, he did.

Mr. **Cheney**. Do you know why, what his thinking might have been in terms of picking you for what was an important post?

Mr. **Sporkin**. I never asked him that. I do know that on one other occasion when he went over to the Export-Import Bank he asked me to become General Counsel of that, and I hadn't had my fill of chasing the wrongdoers on Wall Street up until that time so I decided to stay where I was, and I guess I didn't want to become a banker anyway.

So I didn't go with him that time. He then, after the 1980 election he came into town and asked me to come and have a drink with him and he said that I am going to, he says you know I asked you one other time to come with me and you turned me down, I'm going to ask you one other time if you want to come and be my General Counsel at the CIA, and I'll give you one more chance, and I said, Bill, let me think about it, and I thought that was time to make a change.

Mr. CHENEY. It would appear that when he had a difficult legal position to fill that you were a man he thought of first.

Mr. SPORKIN. Well, I don't know if I was first or second or third.

Mr. CHENEY. Well, whatever. Would you describe him as your mentor, say you were perhaps a protege of his?

Mr. SPORKIN. He, again I have such a great feeling for this man that it's very difficult. I can describe him in any way you want. I have learned a lot from him. He was an enormous individual. He was brilliant, he was very, very, you know, a great man.

Mr. CHENEY. I share your favorable view of Mr. Casey. I think he was an extremely able and competent Director of the Agency. But obviously one of the problems we are faced with is that due to his untimely death, he is not available to participate in these hearings and so we have to look to his associates in terms of trying to ascertain what his role was in these proceedings and what his views were at the time, and obviously many of us think he played a fairly significant role in these proceedings.

I wonder if you can comment on what kind of manager or administrator he was. Was he a hands-on kind of an individual, deeply and intimately involved in the work of his subordinates, or was he laid back like some prominent people we have heard mentioned in recent weeks?

Mr. SPORKIN. Laid back, don't ask me about my management style because I think it pretty much mirrors that one because I think it is a good style. I think we've been too critical of that but I think it's always good to get good people, put them in, trust them, give them their ability to do it and then be there to help them when they need it, but that's beside the point.

Casey was an excellent manager although I don't think he had any real management training. I worked under numerous so-called managers who had a lot of formal training who were supposed to be the latest word in management, and he ran rings around them. I'll give you some examples.

When I was at the Securities and Exchange Commission he didn't even know who I was. I was, you know, I had held a post for him. But what do you think, he came to me one day and he said to me, Stan, he says, how can I make your job easier? Tell me what we have to do to make your job easier. I said you really want to know? He said yes. Well, I had a list of about 10 things that were all the things the other chairmen had put on me over the years, and now I couldn't believe we were going to take all these off. He did the same thing at the CIA. This was a real person who wanted to help the people themselves.

In government I found that there was too often a relationship between—the top management feared the people under them, they feared that they were going to do something that they didn't want them to do. People feared the Agency, feared the people under them. He went in there to try to help the Agency to achieve what it was supposed to achieve.

Mr. CHENEY. Would you describe him as having a great deal of knowledge about what was going on underneath him? Obviously, he had to know a good deal about your job, your duties, your responsibilities to come to you and offer to make your burden lighter.

Mr. SPORKIN. He didn't get involved in the legal end of it. He relied on me. But in other operations, my perception was he was always—he wanted to get to the heart, get down to the people themselves. He would cut through layers of layering. He wouldn't sit around and wait for the Deputy Director and the Deputy Deputy Director and the four people under him or six. He would go right down to the bowels of the operation and speak to those people.

He was that kind of person that would be able to penetrate. I must tell you at one point I mentioned to him, I said——

Mr. CHENEY. Can you talk into the mike, Judge?

Mr. SPORKIN. At the beginning I mentioned to him I didn't think he could ever really take control of that organization. I was surprised after a number of years he was able to. Very difficult.

Mr. CHENEY. In terms of the choice I made up front—laid back or hands on—as I interpret what you are saying, he was very much an active, aggressive involved manager of the Agency?

Mr. SPORKIN. Yes. But he wasn't a micromanager. He was interested in pushing what he wanted to push. He had his number two person who was the operations officer to make sure things ran right. And also one thing he wanted to do, and he did this at the Securities and Exchange Commission as well as the CIA, he had all phases of the operation working at once, like getting a 16 cylinder car and having every cylinder working.

He didn't limit himself to, say, the intelligence gathering area, or to the covert operation area. He was broad based, which is an amazing kind of thing and very difficult for someone to do.

Mr. CHENEY. Given what you know about him, Judge, is it likely that the kinds of activities this committee is interested in looking at, specifically the Iranian arms transaction, the concern about hostages, the support for the Contras, are these the kinds of activities that would have gone on involving Agency personnel that he would not have been aware of?

Mr. SPORKIN. That is hard—I wasn't there, as you know, from February 7.

Mr. CHENEY. Up until the time you left?

Mr. SPORKIN. I would assume he would know what was going on. But I would also tell you that I don't think he would have done anything that was unlawful.

Mr. CHENEY. I didn't suggest that. I am suggesting—trying to ascertain, given your perspective that as you, yourself, described it, you occupied one of the three top slots in the Agency—the Director, the Deputy Director, and yourself.

Mr. SPORKIN. No. I think I misstated—or you miscon—in this particular project, I was the highest—because I only thought that the people who were at that time involved in it was the Director and Deputy Director, possibly the Deputy Director of Operations. But I considered myself as being the—when those two weren't there, that I was the one that was the person. But I didn't mean to say I had the third job in the Agency. I was off on the side somewhere, not in the straight up and down line, not as a line officer.

Mr. CHENEY. Did the Director ever confide in you his views on either one of these matters, either support for the Contras or the Iranian transactions from a policy standpoint?

Mr. SPORKIN. On the support of the Contras, it is obvious where his sympathies were. As to the Iran transaction, I think on that one, I didn't detect a great enthusiasm. I detected, one, that it might deserve a chance to work. Nothing else was working.

Mr. CHENEY. Had he ever——

Mr. SPORKIN. Everything else had been shut down.

Mr. CHENEY. In connection with the Iranian transaction, did he ever mention any concern about the fate of Mr. Buckley?

Mr. SPORKIN. I wouldn't have had that conversation with him, but I am sure not only he, the entire Agency was concerned about Buckley. You are absolutely right. Buckley was a concern of everyone's.

Mr. CHENEY. Because, of course, he was our Station Chief in Beirut, captured by terrorists, tortured and ultimately put to death.

Mr. SPORKIN. I don't know whether you know it, Mr. Cheney, and I don't think it is anything that is classified, but he had set up a very special group that was concentrating solely on trying to get the hostages out. I just—I wasn't even involved in it, but I heard it was going on and I knew the people that were in it. I don't even think they—they even met—might not have met in the building. It was a group that was a task force that was trying to do it. So there was a concern.

Mr. CHENEY. Would you expect, given that level of concern and certainly—Mr. Casey's loyalty to his subordinates who undertook extremely hazardous and dangerous assignments as Mr. Buckley had—that that is the kind of thing he would have expressed to the President?

Mr. SPORKIN. I am sure of it. I wasn't there, but I assume he would have told——

Mr. CHENEY. Do you have any firsthand knowledge, any discussions, conversations, you ever had with Mr. Casey or anybody else in the Agency concerning the matter?

Mr. SPORKIN. Oh, yes. Other people. We were concerned. There is no question about it. Extremely concerned. And as I say, they set up a task force to—just to do that task of some of the top people. They were exploring every possibility.

Mr. CHENEY. Let me shift gears for just a moment. Did Director Casey ever talk to you generally about the need for secrecy, the problem of leaks, especially in connection with this operation? I believe you indicated you did have some discussions with him concerning whether or not Congress should be notified of this exercise?

Mr. SPORKIN. Not on the——

Mr. **Cheney**. Not on the memo itself, but generally?

Mr. **Sporkin**. Not on the first Finding. That was, as I told you, before—everything on that was my responsibility. No prior discussion with Casey at all.

Mr. **Cheney**. Why were you concerned? What was the background in your conviction the President needed to make a decision here not to notify the Congress?

Mr. **Sporkin**. Well, we were in the middle of something. I knew that. Here I was coming in and, in effect, stating that before we could take the next step, we better get the President to make a Finding. I thought that this operation, if it was as—or that there was a chance of it to happen, it had to operate in the utmost of secrecy. That was impressed upon me.

That was an item, as I told you—there are three parts to this, three components. I decided to deal with it as any lawyer. How do I deal with that problem? How do I maintain the utmost secrecy on this project? How do I do it?

I decided on that to invoke something that I knew hadn't—I don't think had been invoked before by this administration.

Mr. **Cheney**. Was there ever an occasion with respect to other covert action Findings—maybe the question wasn't asked. I assume you were involved in the preparation of other Findings?

Mr. **Sporkin**. Right.

Mr. **Cheney**. Was there ever another occasion during your tenure at the Agency when you recommended that the President not notify the Congress?

Mr. **Sporkin**. I don't know. There was one other instance where there was a partial non-notification is my recollection. But I think what happened is they went to the chairmen of the committees or something.

I think Mr. Hamilton decided he didn't want to hear it or something. I don't know if that is true.

Mr. **Cheney**. I will let Mr. Hamilton address that. Why didn't you recommend taking advantage of the procedures that existed and notify the so-called Big Eight: the Speaker, and Republican Leader, the Republican and Democratic Leaders of the Senate, and the chairman and the Ranking Member of each Intelligence Committee?

Mr. **Sporkin**. I can't recall whether that even crossed my scope at that time. The point, as I see it now, is that we are involved in a very extraordinary project, but it wasn't a big kind of normal special activity, if you understand.

In other words, this was an activity that was in the middle which was going to be accomplished, I thought, at some short date. It had a specific objective; and I don't know whether you stop it at that point and go back and do these other kind of extraordinary procedures. That's the way I could see it, now.

So what I was thinking of and what—my point was, let it go ahead, but make sure that you get the President really to let it go as it is going. Remember, it is going without any notification. So what I'm saying is, let this go ahead, but make sure that the President knows it is going ahead. And that he has authorized what is happening.

Mr. **Cheney**. But what about the Congress?

Mr. **Sporkin**. As I said, the Congress had not been notified at that point. What I am trying to do is take care of the one major problem, which is to make sure that the President, that we know what the President's stand is. That's why I did it that way.

Mr. **Cheney**. Do you now, with the benefit of hindsight, do you have any second thoughts about that decision to go for non-recognition or nonnotification of the Congress?

Mr. **Sporkin**. Congressman, if this is what this has caused, obviously, that's an easy decision. But I think—and again, it would be easy for me to say so. It doesn't cost me anything to tell you that.

But I do think whether this is the case or there might be some other case, I do think there are instances where you would have nonnotification. I think it is built into the statute itself. It is built into the Constitution.

Mr. **Cheney**. Judge, I am not one of those members who insists or believes that it would even be wise to require the President to notify the Congress in advance. I think lots of times demands for notification are overdone by the institution I am a part of. But we have tried with the statute that is on the books to create a procedure which would indeed allow for limited notification to the Congress.

I am aware of the arguments on the other side. Bill Colby, in his memoirs—a former Director of the Agency—and I believe in testimony before the Congress, said in his last year at the Agency as Director in 1975, every single covert action that was brought to the attention of the Congress was subsequently leaked. Not necessarily by the Congress, but ultimately it became public. There is a long history of difficult aspects of this relationship.

It strikes me that this was a momentous decision, not a relatively minor decision, that in light of the subsequent some 11 months before Congress is notified, in light of the controversy that has obviously developed, it strikes me that this was a very big decision that you made in connection with that November Finding and that others made in connection with the January Finding.

Mr. **Sporkin**. Well, again I wasn't looking down 11 or 12 months. I thought it was going to be a shorter period of time than that.

You know, I sometimes wonder if I had still been at the Agency whether this would have happened. I kind of think that it would not have. I am not trying to pat myself on the back, but there would have been certain key times when we would have had to focus on it. That's what concerned me.

There is one other thing I just mentioned to you Congressman, and that is, there still could be a system where there could be an accountability point. In other words, if you are going to make one of these Findings, at least you notify the Congress that a Finding had been made which would allow disclosure maybe 30 or 60 days down the road. So there are ways of dealing with that kind of problem.

Mr. **Cheney**. Let's pursue that for a moment. I see my time is about up, but by way of closing out my questioning, what if any recommendations would you make that, had they been in existence at the time, would have given you sufficient confidence so you would not have recommended to the President of the United States that he not notify the Congress of a significant covert action?

Mr. **Sporkin**. I don't think it is a confidence factor. I think as I told you, I was in the middle of something. There are instances where you are going to have to recognize that there are secrets that have got to be very tightly held.

I'll give you an example. Suppose through a covert action, we were able to get the person in the Soviet Union with his hand on the button. You were not going to go around and tell 10, 15 people about that. So what I'm saying to you is, there has to be some method that somebody—how you define it, I can't tell you.

It is obvious from what we are doing here, I might not have called the right one at this time, but there's going to be one that somebody is going to agree is the right call.

Mr. **Cheney**. Ultimately, Judge, one of our responsibilities as a committee, of course, is in this particular area. Some of us serve on the Intelligence Committee and will be addressing the issue in the months ahead anyway. But it is to try to ascertain whether or not there's anything we can do to improve the confidence level in both bodies, both the Executive Branch and the Congress, so the relationship works the way it has to work if it is going to be a smooth, functioning, ongoing operation.

Having made this decision, it strikes me that it would be beneficial from the standpoint of the committee to have your thoughts on why it is you made the decision to go covert, if you will, in this particular instance and not tell the Congress.

Mr. Chairman, I have no further questions.

Chairman **Inouye**. Thank you.

Senator Cohen?

Mr. **Cohen**. Thank you, Mr. Chairman.

Judge Sporkin, a number of witnesses have come before the committee and invoked the fifth amendment. I think you may be our first witness by the conclusion of today's proceedings to invoke the eighth amendment, which prohibits the infliction of cruel and unusual punishment. If you don't, one of us up here probably will during the course of it.

I was interested in your reaction in November when you were presented with this dilemma in which Mr. McMahon came to you and said, "We've got a problem. One of our proprietaries has been involved with a covert operation. We need you to take a look at it."

This morning you said—in response to Mr. Woodcock—you said, "Look, I gave him some stiff legal advice. You have to go to the President to get authority."

I guess my question is, what is so stiff about telling the Agency that they have to comply with the law?

Mr. **Sporkin**. Oh, I didn't—no, Senator. I don't think—you are putting it on a legal-non-legal. I was putting it on a prudential basis. There is a lot of people that might have thought that I might have pulled the trigger too soon. And there's a probably—I think there could be a debate whether that was required, quite frankly. It is very—where was the Agency at this point? The Agency was running a proprietary. It was at the tail end——

Mr. **Cohen**. What is so stiff about saying you have to go to the President on this one to get authority? What is so terrible about going to the President saying some activity took place involving the

CIA that requires a Finding? What is so stiff about that kind of advice?

Mr. SPORKIN. Again, when you are in the pits, you don't—you know, you can't go—there's only so many times you can pull that one. It seems to me—the President has a lot of things to do. You don't want to go and start, every time there is an activity that the Agency is involved in, to go to the President and say, "You have to have a Finding." You can't micromanage this country.

Mr. COHEN. It is not micromanaging. It is a question of applying the law. If, in fact, Mr. McMahon was quite upset, was he not, when he came to you saying, "We have to have something here, Stan"?

Mr. SPORKIN. I don't think he said, "We have to have something." What he said to me is, "I want you to take a look at it."

Mr. COHEN. Let me tell you, he talked to the Intelligence Committee. He testified, too, under oath that he was the one who came up with the recommendation that we have to have a Finding. We have to have a Finding. I think it's a minor matter, but he proceeded to tell us how agitated he was. He seemed quite sincere in the fact he was very upset with what had taken place.

But in any event, I guess my question really was trying to find out, what is so difficult about going back to the Agency, saying, "Look, you have to have a Finding on this, have the President sign off on it if you are going to abide by the law"? It doesn't sound like an onerous burden for the Agency or indeed the President.

Mr. SPORKIN. Again, what I am saying is, with the President having all the activities that he has, to tell him that this is a matter that he himself must approve, I think is a stiff advice. I don't know how many times that's done in government.

Mr. COHEN. He signs a lot of Findings, doesn't he?

Mr. SPORKIN. I don't think so.

Mr. COHEN. You don't believe there are a lot of Findings that are signed concerning covert activities?

Mr. SPORKIN. I know there are not.

Mr. COHEN. Pardon?

Mr. SPORKIN. I know there are not. We know how many. How many during a year does he——

Mr. COHEN. I don't want you to give me the number. There are certainly more than a dozen, wouldn't you say?

Mr. SPORKIN. Oh, yes.

Mr. COHEN. Two dozen?

Mr. SPORKIN. I don't think it is two dozen.

Mr. COHEN. In any event, but there are more than—this is a fairly—not a routine part of his administration, but when we are dealing with covert actions, the President is required to sign it?

Mr. SPORKIN. Senator, you take what the normal covert Finding is, if you knew what effort went into those normal covert Findings——

Mr. COHEN. As they should.

Mr. SPORKIN. I know, but you are talking about very, very—labored. It goes through tremendous numbers of people.

Mr. COHEN. I understand.

Mr. SPORKIN. So what I am saying to you, this—I don't know of how many instances you had a situation like this where I take the Finding and go to the Deputy Director and do it.

I would say to you again, as you know, I am testifying here today under oath. I am telling you, I guess, Mr. McMahon obviously—I am not going to be in any kind of dispute with him, but I don't think it is—my recollection is different. I think all he could have said is he wants a Finding, and I would have done it.

Mr. COHEN. It is not a major point. My only concern was why was it so stiff advice. But, lets move on to something else.

Chairman INOUYE. May I interrupt to advise the Judge the House Members did not walk out on you.

There is a vote in progress in the House of Representatives.

Mr. SPORKIN. Thank you, sir.

Mr. COHEN. This morning, Judge Sporkin, you indicated you had to get from A to B. You can't send the client away when you are working for the U.S. Government and you can't duck problems and you didn't take the time to go through any kind of technical analysis about how you get from A to B, but you decided, based on your experience, that is where you want to go.

There is an old Maine expression that says you can't get there from here.

Why couldn't you have just said you can't do this? You can't have a ratification of a prior unauthorized act?

Mr. SPORKIN. Because I was not clear that that was an unauthorized act.

Mr. COHEN. Based upon what was told you, you had no indication that the President gave any authority to sell anything to either the Israelis or to the Iranians, did you?

Mr. SPORKIN. I didn't have it either way.

Mr. COHEN. Right. You didn't have any knowledge whatsoever?

Mr. SPORKIN. None at all.

Mr. COHEN. So how could you give a recommended advice getting from A to B without knowing whether the President had, in fact, ever authorized that in the beginning?

Mr. SPORKIN. Because that was being teed up for him in that Finding.

Mr. COHEN. What do you mean "teed up"?

Mr. SPORKIN. Well, because it says "I hereby ratify", and "I hereby authorize". Therefore, if he did not ratify, he did not.

Mr. COHEN. If he had not authorized it initially, is it your judgment he nonetheless could have ratified it subsequently?

Mr. SPORKIN. I think—again, I am giving you what my best recollection is, the testimony which I think is consistent is—that he—this was activity that he wanted to be accomplished and that is what this was to see if that is so. If not, then he would have come back and said that isn't so.

Mr. COHEN. The point is you had no information whatsoever as to whether or not this activity had been authorized prior to the act having been completed. That is pretty clear from the record?

Mr. SPORKIN. Absolutely clear.

Mr. COHEN. So what you are saying is that under your interpretation of the law, if the President could have authorized the activity in the first place, he could, in fact, subsequently have ratified it?

Mr. SPORKIN. I don't think I am saying that. What I am saying to you is the fact that I didn't know he authorized this activity doesn't mean he hadn't authorized the activity.

Mr. COHEN. Wouldn't that have been an important factor in your mind as to whether or not you advised how to get from A to B through a Finding and a ratification of prior acts?

Mr. SPORKIN. Well, I think that is what this was to accomplish. That is what this was—I don't take the position that the President was going to take this document and just simply rubber stamp it. Either he meant it or he didn't mean it.

I had no way of communicating other than I couldn't conceive of myself picking up the phone and calling him.

Mr. COHEN. The reason I am asking you this is not looking back over the past, but rather looking to the future. If there is a theory advanced that you can have an act which takes place which is not authorized, but subsequently can in fact be ratified, then what you have in effect is a proposal whereby the CIA could hold the President hostage for a Finding in the future.

Let me give you an example. You talked about hypotheticals. For example, a foreign leader who was particularly despicable to us is violently overthrown by foreign nationals who it turns out have logistical assistance by members of the CIA.

Could the President then ratify that act if he hadn't authorized it in the first instance?

Mr. SPORKIN. I would have been against that.

Mr. COHEN. Can it be done under existing law? Can it be done? is what I am asking. Not whether you would authorize—can it be done under your interpretation?

Can you have an unauthorized activity subsequently ratified by the President?

Mr. SPORKIN. It seems to me when you say "unauthorized activity", I think you are answering the question.

Mr. COHEN. There is no Presidential Finding in existence. The activity takes place. They then come to you and then you present it to Mr. Casey or to the President saying, look, this is what took place, we need to have it ratified in order to make it legal.

Mr. SPORKIN. I would have urged against it and I would not have done it. I say to you that this is an altogether different situation, because we are talking about something that was unauthorized. I don't know whether it was unauthorized.

Secondly, I am talking about something in which the CIA was a very minor player. That is another reason why you say—when I say it was stiff advice. It was an extraordinarily minor player.

Third, we are talking about something that took place within 48 hours.

Mr. COHEN. Did you know whether the acts included Israeli activity? I think you testified you didn't have any knowledge about their activity, the Israelis, on the prior act. In November——

Mr. SPORKIN. I thought I did know—did I say that?

I think I knew that they—when you are talking about foreign, I think I knew that.

Mr. COHEN. All right. Did anyone to your knowledge believe there was a transfer of oil-drilling equipment?

Mr. SPORKIN. I heard of that, and I can't put it into context, but I didn't take it as that.

Mr. COHEN. Is it your judgment that you can have an oral Finding?

Mr. SPORKIN. Well, you are asking me now, and I have seen documents that indicated you can have an oral Finding.

Mr. COHEN. You believe there can be an oral Finding?

Mr. SPORKIN. Yes.

Mr. COHEN. I think you indicated to Mr. Woodcock it is a very serious matter to have a Finding because it sets the guidelines for the Government to carry out its activity?

Mr. SPORKIN. Right.

Mr. COHEN. Doesn't that, in effect, undercut the very purpose of the Hughes-Ryan Act?

Mr. SPORKIN. To have oral Findings?

Mr. COHEN. Yes.

Mr. SPORKIN. I don't know whether I would act on one. But it seems to me—you can't straight-jacket the President either. If the President calls someone in and says we have to move today, go out and do it, I think that somebody can be able to go out and do it and then later on you do the paperwork. It is just—it really—how——

Mr. COHEN. How long do you think the paperwork should take?

Mr. SPORKIN. It shouldn't take long.

Mr. COHEN. Well in this particular case, if we look back at the facts, apparently the oral Finding was some time in August of 1985?

Mr. SPORKIN. I wasn't involved in that.

Mr. COHEN. August of 1985, and there was no paperwork to sort of clear it up until December or November, with proposed your Finding.

Mr. SPORKIN. Well, wait.

Mr. COHEN. Your draft of the Finding was in November of 1985, was it not?

Mr. SPORKIN. I wasn't trying to clear that up.

Mr. COHEN. That is what I am pointing out. Here we had a situation where there was an oral Finding. That appears to be an unreasonable length of time even under your interpretation, to have a written declaration of the guidelines. Right?

Mr. SPORKIN. I hope it is right, but I don't know whether I am being tarred with here.

Mr. COHEN. I am not trying to tar you. I am just trying to find out what the procedure ought to be. If we are going to have oral Findings, it seems that is a definite undercutting if not the letter, then the spirit of the law.

Mr. SPORKIN. You are asking me in a legal thing whether there can be an oral Finding. I suppose you can. If you are asking me whether it is prudential to do it, I suppose it is not. I would say it is not. There could be one or two circumstances in which the President ought to be able to say go out and do something and in a short period of time later he will, in effect, do the paperwork to ratify it.

Mr. COHEN. You were called upon by Mr. McMahon to get a Finding or make an analysis of the problem. Then in January, you were called by Lt. Col. North, who said we want another Finding, an expanded version.

Mr. **Sporkin**. Right.

Mr. **Cohen**. Is Lt. Col. North in the habit of calling up general counsel to the CIA and saying get me a Finding, or we want a new Finding?

Mr. **Sporkin**. You said had he done it before? He hadn't done it before. So he wasn't in the habit.

Mr. **Cohen**. Were you in the habit or in the custom of taking requests from someone at the NSC as opposed to Mr. Casey?

Mr. **Sporkin**. Well, I think I explained what happened here. The point is when it came to a mere drafting thing, I did it. But when it came to taking one step further, I went and called Mr. Casey, got him off the golf course. Yes, I wasn't. But you have to remember, at that point I was the senior official at the Agency on this matter.

Therefore, I had certain discretion. But I didn't exercise that discretion when I found that Mr. Casey was not involved in the matter, and I did get him off the golf course.

Mr. **Cohen**. Now, you indicated before that there was strong personality clashes, at least between Mr. McMahon and Oliver North, the meeting you attended. Was it in December?

Mr. **Sporkin**. He wasn't—McMahon wasn't there. That was my interpretation.

Mr. **Cohen**. I think you indicated before in prior testimony it was like the mixing of oil and water?

Mr. **Sporkin**. Well, I probably did.

Mr. **Cohen**. That didn't come about through one day's observation. I think it perhaps came about over a period of time. You realized the deep feeling Mr. McMahon held about the Agency and you also knew about the strong feelings held by Oliver North?

Mr. **Sporkin**. I think so.

Mr. **Cohen**. And as a matter of fact, Mr. McMahon did not like the prospect of Oliver North drawing the Agency into this particular activity, did he?

Mr. **Sporkin**. Well, he didn't want the Agency involved in it. He would rather have somebody else do it.

Mr. **Cohen**. And Mr. North knew he would have some problems with Mr. McMahon if he insisted the Agency be involved? Is that what you said this morning?

Mr. **Sporkin**. I think that is a fact.

Mr. **Cohen**. What we had ultimately is Colonel North prevailed because the Agency did in fact become involved and Mr. McMahon decided to take retirement instead?

Mr. **Sporkin**. No. Well, you are asking me that—I don't know that. All I know is I left before Mr. McMahon left.

Mr. **Cohen**. OK. Why did you believe that the November Finding had been signed?

Mr. **Sporkin**. Well, I believed it because the recommendation I had given to Mr. McMahon was accepted that he said he was going to take care of it. Everything that I saw indicated that it was. The——

Mr. **Cohen**. You never saw the Finding signed?

Mr. **Sporkin**. No, sir. I never saw the Finding signed.

Mr. **Cohen**. No one ever saw the Finding signed?

Mr. **Sporkin**. I don't know of anybody.

Mr. COHEN. In effect a stealth Finding that ended up in somebody's safe and was never acted upon?

Mr. SPORKIN. I don't know whether it has been signed or not. Somebody is going to have to determine that.

Mr. COHEN. In any event, you said you came to the conclusion it was signed or you assumed it was signed, but then in January you were asked to draft another Finding.

Mr. SPORKIN. That is correct.

Mr. COHEN. As a practical matter, wouldn't it have referred to the prior Finding? Don't you draft Findings either superseding or modifying a prior Finding?

Mr. SPORKIN. That was a possibility. That didn't occur to me, except, that as you know, as it finally comes out, it in effect subsumes that other Finding, because I recommended to the Director that the hostage matter be put back in or be put into it.

Mr. COHEN. Switching up to January 20th, you said there were two things on your mind: Number one, get the hostages back, and Number two, make sure the weapons were paid for.

Mr. SPORKIN. That is right.

Mr. COHEN. That was the principal focus of your attention during that meeting?

Mr. SPORKIN. Right.

Mr. COHEN. And as a matter of fact that was the principal focus of the administration, was it not?

Mr. SPORKIN. Which meeting are you talking about?

Mr. COHEN. January 20th.

Mr. SPORKIN. The one in the situation with—yes, OK, that is correct.

Mr. COHEN. And during that meeting, that is the time you met with General Secord?

Mr. SPORKIN. Yes, that is right.

Mr. COHEN. Did you ever make a statement concerning how the Agency should have disowned Mr. Wilson?

Mr. SPORKIN. Yes, I did.

Mr. COHEN. You did. And that was met with some criticism, was it not?

Mr. SPORKIN. No, yes—let me tell you what that was.

Mr. COHEN. If you could do it just briefly, because my time is running out. Mr. Casey instructed you well.

Mr. SPORKIN. What happened was that when the Wilson matter broke, there was a—some of the people that were there wanted Casey to in effect try to justify the actions of the Agency. I thought that the best way to proceed is to say that, look, we're a new broom in here, and we will take whatever action has to be taken.

You get a few times in the course of events that you can do that, and that was my strategy.

Mr. COHEN. But there were people who were upset with——

Mr. SPORKIN. I think some of the people at the Agency wanted to, you know, everything the Agency did was right.

Mr. COHEN. And at a time, there was a time when General Secord came to you complaining about the treatment he had received as a result of the association, was there not?

Mr. SPORKIN. That is right.

Mr. COHEN. Did you quote a Russian proverb to General Secord?

Mr. Sporkin. There is something in his note which I will not deny I said, which is if you lie down with dogs, you can expect to come up with fleas.

Mr. Cohen. Now, then—one final area of questioning. There was a suggestion yesterday by some of the DOD witnesses that you have an option. We can either follow certain public procedures or we can quote, "go black." The implication was left that somehow if we decided to go black we don't have to necessarily comply with other provisions of the law. Would that be your interpretation, as well?

Mr. Sporkin. Well, they are using the word—I think they are using black for special activities, covert operations and my view is that is what covert operations are. That they give the President an opportunity to, through a different regime, a different type of reporting requirement, to do it that way so that you can avoid the other problems, yes. I think that is an accurate statement.

Mr. Cohen. If I could just ask two more questions, Mr. Chairman. I have some difficulty with that interpretation because there is nothing in the Hughes-Ryan Act which suggests that somehow that would preempt the other provisions of the law. I will give you a series of quick hypotheticals, if I can.

If we had the Arms Export Control Act, had a flat prohibition on the sale of arms to countries who sponsor terrorism and we listed Iran as one of those countries who sponsored terrorism, could the President legally sign a covert action permitting the CIA to ship arms to Iran?

Mr. Sporkin. I think that is what we said in this case.

Mr. Cohen. Pardon.

Mr. Sporkin. I think that is what we said in this case.

Mr. Cohen. No, I don't think we said that.

Mr. Sporkin. Well, I mean that was my—that was the interpretation that you could have that that could be done. That is what covert action is, Senator. It is an ability of the government. You see you are not defeating anything because the system requires there be notification to Congress.

Mr. Cohen. If there is a law on the book that expressly prohibits the sale of weapons to a particular country because they are listed as involved in terrorist activities, is it your statement that we can then go through a covert action and do that even though there is a flat prohibition?

Mr. Sporkin. No, you can have a Clark amendment that will shut everything down. There is no question about it, yes. If you know under the Clark amendment the Agency didn't do anything there, because they were shut down. I am talking now about the general laws. Yes, you have to be able, under covert operations, to be able to do these things.

Now you can stop that, but the—two can't live side by side. The point is, though, that the system does provide for the same kind of tracking as the other provisions. It is only done in a different way.

Mr. Cohen. I don't have time right now to pursue it. But that is an area I think warrants some examination. Thank you very much.

Chairman Inouye. Thank you. Senator Hatch.

Mr. Hatch. Judge Sporkin welcome to the committee. I know it has been a easy day for you so far, but I just have a few questions for you. You were general counsel of the CIA for what, about 5 years?

Mr. Sporkin. Yes, sir.

Mr. Hatch. During that time I gather you became aware of a number of covert operations undertaken by the CIA; is that correct?

Mr. Sporkin. That is correct, sir.

Mr. Hatch. What is a covert operation? Define it for us.

Mr. Sporkin. It is an operation employed by this government to affect a certain internal processes of another government without the other government knowing it.

Mr. Hatch. And without our people knowing it for the most part, too?

Mr. Sporkin. Well, it is done on a nondisclosed basis.

Mr. Hatch. All right. When in your opinion does a covert or did a covert action require a Presidential Finding?

Mr. Sporkin. Well, I think the act says that before you can spend any appropriated funds a Finding has to—the President has to find that it is in the national security interest to do so.

Mr. Hatch. Would you agree that the Hughes-Ryan amendment generally requires a Finding any time the CIA conducts a covert operation that goes beyond the basic intelligence gathering operation of the Agency?

Mr. Sporkin. That is a fair statement.

Mr. Hatch. With respect to the Iran initiative, I gather that you felt a Presidential Finding was the prudent thing to do in that initiative?

Mr. Sporkin. Without making that legal analysis or judgment, because it involved the shipment of arms to Iran in connection with the hostage rescue, and I thought I wanted to have a Finding, yes.

Mr. Hatch. Did you feel a Finding was legally required at that time?

Mr. Sporkin. I did not make that determination.

Mr. Hatch. Would you agree the plain meaning of the Hughes-Ryan amendment would require a Presidential Finding, whether written or oral, to occur prior to the activity in question taking place?

Mr. Sporkin. Well, again, I think—does Hughes-Ryan speak in terms of CIA? This is almost like a bar exam. Does it limit itself to CIA? I think it does, doesn't it, the CIA?

Mr. Hatch. Yes.

Mr. Sporkin. This, if you recall, was an operation not mounted by the CIA. This was an operation that was mounted by, I guess, the NSC where the CIA somehow happened to be standing around when somebody needed their help.

Mr. Hatch. They are in the same government.

Mr. Sporkin. The same government, you are right.

Mr. Hatch. With regard to the Iran initiative, when you first learned of it in November of 1985, did you attempt to decide or determine whether Presidential approval had actually been given before the operations earlier in the year had actually been carried out, and if so, what did you do?

Mr. **Sporkin**. No, I didn't make that—I thought that by sending it up, the Finding, that that would have itself triggered that analysis. I did not——

Mr. **Hatch**. Make that determination?

Mr. **Sporkin**. Or ask any questions.

Mr. **Hatch**. All right. So just to summarize this point. in your opinion, there was nothing wrong with a written Finding occurring after the fact so long as the actual Presidential approval had been given before the fact; is that correct?

Mr. **Sporkin**. Absolutely. If there had been Presidential approval giving authorization before the fact, yes, that Finding could have taken place.

Mr. **Hatch**. And that is whether it is oral or written; is that correct?

Mr. **Sporkin**. I would take that position.

Mr. **Hatch**. Regarding the arms sales that eventually occurred in 1986, was it your understanding the arms would be sold from the Department of Defense to the CIA pursuant to the Economy Act?

Mr. **Sporkin**. Yes, sir.

Mr. **Hatch**. Was it your view of the Economy Act that the sales price from DOD to CIA was required to be the purchase price of the arms on DOD's books rather than the replacement cost?

Mr. **Sporkin**. You have the wrong person.

Mr. **Hatch**. You have what?

Mr. **Sporkin**. I say you got the wrong person to ask that question.

Mr. **Hatch**. All right. So you don't have any view on that?

Mr. **Sporkin**. No.

Mr. **Hatch**. In other words, I would take the position, and I think others might too that, DOD was statutorily limited in the amount it could charge another Agency of the U.S. Government. Do you feel that that's so?

Mr. **Sporkin**. I would certainly have to look at it much more carefully than I had looked at it.

Mr. **Hatch**. Well, once the sale from DOD to the CIA was made, according to your understanding under the program that Colonel North was putting together, the CIA was then going to sell the arms to a third party who would then in turn sell them to the Iranians. You can see why I'm raising this issue.

Mr. **Sporkin**. Yes.

Mr. **Hatch**. When the sale by the CIA to the third party occurred, was the CIA restricted by the Economy Act or any other law in the amount it could charge or was the CIA free to set any price that determines, or amount that it wanted?

Mr. **Sporkin**. Again, I just don't feel competent at this stage to answer that question.

Mr. **Hatch**. So you really don't know, is what you are saying.

Mr. **Sporkin**. I would not know. I might have known at one time, but I sure don't know now.

Mr. **Hatch**. Just one final question, Judge, and it is a general one. With the benefit of your 5 years as the CIA chief lawyer, and now that you are a Federal judge, and can pretty well say anything you want to, and get away with it, by the way. Do you have any suggestions for Congress how the laws that pertain to the CIA can be made any better?

Mr. SPORKIN. I'm sure I do. I would say on this area here, I think the one thing that I would urge is this audit trail whereby if there is going to be a Finding, which for reasons cannot be disclosed, that at least the President ought to tell, might want to tell, I mean ought to tell the Congress that there is such a Finding lurking out there, so that at least some—and that there would be a period of time when that would then have to be—notification would have to be made. So at least there would be some sort of a record that the Congress or the SSCI and HPSCI would know about it. That would probably be something that could be considered.

Mr. HATCH. Thank you.

Thank you, Mr. Chairman.

Chairman INOUYE. Senator Sarbanes.

Mr. SARBANES. Thank you, Mr. Chairman.

Judge Sporkin, you stated this morning, repeated this afternoon that a Finding was a very important event in the Agency activities. Would any Findings be made affecting the Agency that you would not be aware of, or would you in the normal course of events be involved in that?

Mr. SPORKIN. My recollection is I had to sign off on every Finding.

Mr. SARBANES. Now——

Mr. SPORKIN. Although, again, I assume they can override that if somebody wanted to.

Mr. SARBANES. To your knowledge—you were the general counsel and knew about all Findings. I take it you did not get back, as a matter of routine, either a signed copy or an indication that a Finding had been signed by the President; is that right?

Mr. SPORKIN. In this case?

Mr. SARBANES. Well, just generally speaking.

Mr. SPORKIN. I think perhaps one of my people might keep those.

Mr. SARBANES. Well, let me ask you, was this the only case in which you did not know whether or not the Finding had been signed by the President?

Mr. SPORKIN. Well, you are asking me personally. There probably would have been others, but I think the office would have known about it.

Mr. SARBANES. So if you don't know that a Finding, whether a Finding has been signed, that would be very unusual, otherwise how could you be comfortable in carrying out the activities not knowing whether the Finding had received the President's signature; isn't that correct?

Mr. SPORKIN. Well, yes, I think you're right on that, but it seems to me that if you are told that a Finding has been signed, that I think, I think that you have a right to rely on that.

Mr. SARBANES. Were you told in this instance that this Finding had been signed?

Mr. SPORKIN. What I'm saying, what I testified, that I was probably told, I just can't recall.

Mr. SARBANES. I see.

Now, how often in your Findings did you put in a provision not to tell the Congress?

Mr. **Sporkin**. I think, as I say here, I think that was the only time.

Mr. **Sarbanes**. This is the only time?

Mr. **Sporkin**. Right. There might have been another time when there was something——

Mr. **Sarbanes**. Now, why in this instance did you write in in exhibit 4 right at the outset the provision not to tell the Congress?

Mr. **Sporkin**. As I said, I had three parts of the problem.

Mr. **Sarbanes**. If you are going to refer back to your previous answer, let me—I recall that answer. Let me put another question to you.

Was the fact that you were putting a ratification provision into this Finding a reason for putting into the Finding not to tell the Congress?

Mr. **Sporkin**. Absolutely not. And I cannot say that any more, any stronger than I've said it. Because that was the first thing that came to my attention.

The ratification matter came to me as I was musing over it, as I was looking, and I said, "Gee, we've got that third problem. And this is the way to deal with it." So if I can make it more emphatic, Senator, I would make it more emphatic.

Mr. **Sarbanes**. Well, now, when you did exhibit 6, which is your Finding of January 2, 1986, you wrote the Congress into that Finding, did you not?

Mr. **Sporkin**. That was my staff, yes.

Mr. **Sarbanes**. And that was, I take it, the normal procedure.

Mr. **Sporkin**. Yes, that is correct.

Mr. **Sarbanes**. In other words, in fact, as I understand it, the only time that you did not write the Congress into it is in the instance of the Findings that we have here before us.

Mr. **Sporkin**. Yes. As I say, there might have been one other instance which had some sort of—it might not have been a full nonnotification, but I'm just going on recollection. But let's pursue it, yes.

Mr. **Sarbanes**. So that in exhibit 6 the Congress was written in, they provided for notification to the Congress.

Mr. **Sporkin**. That is correct.

Mr. **Sarbanes**. You then modified that to write alternatives; is that correct?

Mr. **Sporkin**. That is correct.

Mr. **Sarbanes**. Now, why did you do that?

Mr. **Sporkin**. Because I believed, at that time I'm—somebody has asked me to help in the preparation of a document, and I wanted to make sure that that matter was focused on and that decision had to be made, and I wasn't going to make that decision.

I knew that it had some relationship to the prior Finding, I mean the activity, and I wanted somebody, I wanted that option to be presented to the President, yes.

Mr. **Sarbanes**. Well now when you did the Finding in exhibit 4, you didn't present the option.

Mr. **Sporkin**. That's right. That's correct.

Mr. **Sarbanes**. Now, why did you do it in exhibit 8?

Mr. **Sporkin**. Well, because I believed in exhibit 8 that there was nothing of any tremendous—we weren't in the middle of anything, and I just wanted to make sure when I drafted this that the President had the option.

Now, let me mention one other thing. I was not the person who usually drafted these Findings from scratch; I was a reviewing person. And I don't mean by the staff, I'm talking about the way this came about. But I believed on an issue such as this that the President ought to have the option to do it whichever way he wanted.

Mr. SARBANES. When you did the Finding in November, you wrote the Congress out of it?

Mr. SPORKIN. That's correct.

Mr. SARBANES. In early January, when the Finding was first drafted, the notice to the Congress was written in.

Mr. SPORKIN. Right.

Mr. SARBANES. You then revised that?

Mr. SPORKIN. Yes.

Mr. SARBANES. To present an alternative, is that correct, because you thought the President ought to have that choice?

Mr. SPORKIN. That's correct.

Mr. SARBANES. You didn't think that back in November when you did the Finding?

Mr. SPORKIN. Well——

Mr. SARBANES. You didn't present the alternatives in November in that Finding which you presented in January, in the Finding that is at exhibit 8?

Mr. SPORKIN. Well, I must tell you, if I thought about it in November, I might have done it then. But the point is, November was much different than January, Senator. In November, what I had, I was—we were in the middle of an operation. We had an extraordinarily sensitive operation at that time. I don't think those facts pertained particularly to that January 3, Finding.

Mr. SARBANES. I thought you said that something very important was about to happen and you knew it was geared to a London meeting which involved the release of the hostages as an extremely sensitive moment.

Mr. SPORKIN. What do you—I'm at a loss. I don't know what you are referring to.

Mr. SARBANES. Didn't you say that in January when you were considering this matter, you were aware of a very important meeting?

Mr. SPORKIN. No, sir. That's not my testimony. I testified that on January 20, I learned of a meeting coming up, not January 2, not January 3.

Mr. SARBANES. So at that time you did not think you were in a sensitive situation?

Mr. SPORKIN. I was in a sensitive situation but I believed that that option ought to be presented to the President.

Mr. SARBANES. Finally, on exhibit 9, you wrote the Congress out of the notice; is that correct?

Mr. SPORKIN. No, sir. Where do you see that? I did not write the Congress out.

This was a document that was presented to me and after I had sent up my draft, and that was a decision, and I asked, "Has that decision been made?" And I was told that it had been made. I did not make that decision.

Mr. **Sarbanes**. That was presented to you by North?

Mr. **Sporkin**. That is correct.

Mr. **Sarbanes**. And that is what appeared in the final Findings as you understand it?

Mr. **Sporkin**. That is correct. But that determination was made by people other than Colonel North. That determination was made because I insisted, as I testified this morning, that the Secretary of Defense, the Secretary of State, the Attorney General, the adviser for—the National Security Adviser and Mr. Casey had to sit down and make that determination.

Mr. **Sarbanes**. So it is your understanding that determination was made by those individuals?

Mr. **Sporkin**. That they recommended that that recommendation came through a process where they were the people that were going to sign off on it before it went to the President.

Mr. **Sarbanes**. Thank you, Mr. Chairman.

Chairman **Inouye**. Senator Mitchell.

Mr. **Mitchell**. Thank you, Mr. Chairman.

Good afternoon, Judge Sporkin.

You testified this morning, and I think I got your words as you said them, "An argument can be made that a Finding by the President can override the statute." Did you say that this morning?

Mr. **Sporkin**. Can override certain particular statutes. I think you got to put it in context, Senator. We were talking about some of the arms statutes, not every statute. If I did say that, I've got to modify it.

Mr. **Mitchell**. You modify it, you don't mean that as literally——

Mr. **Sporkin**. That's right. There is an override. That is what a covert Finding is supposed to do at times, yes.

Mr. **Mitchell**. Well, you don't mean that it can override the statute with respect to notification to Congress, do you?

Mr. **Sporkin**. That a Finding can override?

Mr. **Mitchell**. Yes, sir.

Mr. **Sporkin**. No, sir, I didn't mean that at all.

Mr. **Mitchell**. You said this afternoon that nonnotification of Congress is built into the statute; and it is there in precisely defined form, or in defined form, there is some question about how precise it is. You also said nonnotification of Congress is built into the Constitution.

Mr. **Sporkin**. That is correct.

Mr. **Mitchell**. I combined that with what you said this morning, I thought what you were saying is that the President has some overriding power that authorizes him not to comply with the provision of the law requiring notification of Congress in these matters. Were you making that argument or not?

Mr. **Sporkin**. The argument I'm making is very simple, Senator, and that is that section 501 specifically recognizes that there is, there are constitutional prerogatives which are not going to be dealt with by the notification. And that therefore I'm saying it is both a statutory matter as well as a constitutional matter. Because if the statute recognizes it then the statute must mean that there are times when there will be non-notification. And what the statute is recognizing, that there is a constitutional issue here.

Mr. **Mitchell.** So you interpret the statutory reference to the constitutional authority of the Executive and Legislative branches to mean that the President has a broad constitutional authority which enables him not to comply with the other provisions of the statute requiring notification to Congress of covert actions. Is that what you are telling me?

Mr. **Sporkin.** Senator, I'll say it in my terms.

Mr. **Mitchell.** All right.

Mr. **Sporkin.** And I think what I'm saying is Hornbook law quite frankly. I have not really seen any dispute with this—what I'm telling you now.

Mr. **Mitchell.** What is it you are telling us?

Mr. **Sporkin.** Because I'm telling you that the statute recognizes there will be times when the—there will be nonnotification. If you read the statute it's there. The statute in 501(c), 501(a) or 501(b) recognizes it, because what does 501(b) say? It says in instances where the President doesn't give notification he shall make a timely—I forget, he should in a timely fashion give notice—so the statute itself, and I think there is another provision, there is a third provision I think that recognizes that point.

So the statute is replete with these references.

Mr. **Mitchell.** Well, just a minute, Judge. Section 501(b) is very short, and it's clear, and when combined with the legislative authority clearly does not demonstrate the point which you are making. This statute says the President shall fully inform the Intelligence Committee in a timely fashion of intelligence operations in foreign countries other than activities intended solely for obtaining necessary intelligence which prior notice was not given under subsection (A) and shall provide a statement of reasons for not giving prior notice, and those circumstances were emergency situations.

It was not intended to convey a broad grant of authority to enable the President not to give notice. What it was saying is that when there's an emergency and he can't do it in advance, he must do it in a timely fashion as soon as possible.

Mr. **Sporkin.** But Senator, that's the point I'm making.

Mr. **Mitchell.** No, your point is just the opposite.

Mr. **Sporkin.** No.

Mr. **Mitchell.** Your point has been that he has some broad constitutional authority not to tell the Congress?

Mr. **Sporkin.** What I'm saying to you, what the section that you just read recognizes that there will be—look, there is a three track system under this statute. There's the no notice, there's the notice to the group of eight, and then there is the notice to the intelligence bodies.

Mr. **Mitchell.** Where is the no notice track?

Mr. **Sporkin.** The no notice track comes right under the first three or four words where it says subject to or consistent with the President's and the Legislature's constitutional authorities. Now when you take the second provision that says that in those instances where no notice is given he shall give notice in a timely fashion. Now what does that provision mean? It doesn't mean—it has to mean the third track. It can mean nothing else, Senator.

Mr. MITCHELL. No, of course not, it can mean just what I just said, that the President is required to give notice in advance but in those emergency situations when he cannot give notice in advance, then he is required to give notice in a timely fashion.

Mr. SPORKIN. Where do you think he gets the right not to give notice in advance? Where does that come from?

Mr. MITCHELL. It comes from that language which directly contemplates it. I think this testimony of yours makes clear that one of the things we have to do is to completely revisit this act. If you as the General Counsel to the Central Intelligence Agency read this to mean that the President in his discretion can in circumstances when he determines it appropriate not notify Congress of covert activities, then this statute doesn't mean anything.

Mr. SPORKIN. Senator, you have read in things I didn't read in it.

Mr. MITCHELL. That's what you just said, you said there is a three track approach and one of them is no notice.

Mr. SPORKIN. Yes, but you read in discretion and all these other things. What I'm saying to you is by the very words of that—there has got to be a contemplation there will be a time when no prior notice will be given.

Mr. MITCHELL. And it says that in 501(b) but it makes it clear the notice will then occur in such limited circumstances in a timely fashion.

Mr. SPORKIN. But the point I'm saying if you read the provision the way you are reading it, if you read the provision the way you are reading it, there's no time when the President could not give prior notice, that he could act without prior notice. Otherwise it has got to be something——

Mr. MITCHELL. No, you are completely misstating what I said—Mr. Chairman, my time is up. May I have just one more minute.

You have said that there are three—you said a three track approach.

Mr. SPORKIN. Right.

Mr. MITCHELL. All right. One of them is no notice. That means he doesn't tell Congress.

Mr. SPORKIN. That comes from the statute. You are saying it doesn't come from the statute?

Mr. MITCHELL. I'm saying what the statute says is when—you see you are not using the word "prior", is when he can't give prior notice then he must give notice in a timely fashion. I don't read that to mean no notice, I read that to mean he can't give prior notice but then he must notify Congress as soon as possible, in a timely fashion.

Mr. SPORKIN. I don't think we are saying anything different. What I'm saying——

Mr. MITCHELL. I think there is a big difference.

Mr. SPORKIN. I wasn't saying no. In all these we are talking about deferred notice, we are not talking about no notice. I'm sorry if we are on the wrong track.

Mr. MITCHELL. Then let me ask you one conclusory question. Do you agree that the President has no authority not to notify Congress with respect to such activities?

Mr. SPORKIN. You are asking me a question which I am telling you an argument can be made. I did not——

Mr. MITCHELL. I'm asking you do you believe that?

Mr. SPORKIN. I do not make that argument.

Mr. MITCHELL. Do you believe it?

Mr. SPORKIN. My point is there may well be a const—I do not want to give away the President's constitutional prerogatives. It may well be that he does have, under certain circumstances, but, I must tell you as I said this morning, I counseled against it. I counseled against it. I said there must be notice given, there must be notice given.

Mr. MITCHELL. I apologize, Mr. Chairman, to you and members of the committee for going over. I would like to continue this, Judge Sporkin, but my time is up.

Chairman INOUYE. Congressman Stokes.

Mr. STOKES. Thank you, Mr. Chairman.

Judge Sporkin, do you believe that covert actions which make significant changes in U.S. policy ought to be brought to the attention of the Congress?

Mr. SPORKIN. Yes, sir.

Mr. STOKES. Do you also believe that individuals such as the Speaker of the House, the Minority Leader of the House, the Senate Democratic, the Republican leaders are as worthy of trust as Mr. Ghorbanifar or Mr. Hakim?

Mr. SPORKIN. More so.

Mr. STOKES. More so. Good.

Mr. SPORKIN. I don't mean that—I mean it obviously——

Mr. STOKES. I understand what you mean and I appreciate your reply.

Do you believe that these officials could contribute as much or more to the counsel offered the President than officials from foreign governments?

Mr. SPORKIN. Yes, sir.

Mr. STOKES. All right. Now, Judge, I gather from some of your previous statements that you believe that the President can withhold notice of a particular covert action that may involve high risk of life, that he need not communicate any information about that activity until the risk which led to his withholding information has ended. And I gather further this kind of concern about the risk to life could lead to a situation where a covert action Finding would not be brought to the attention of Congress for months, possibly years, is that correct?

Mr. SPORKIN. Well, everything up until the last part, Congressman, I would agree with. Look, I would be concerned about the months and the years, but there is, there are operations in which you would have that, which—where the President has got, I believe you know has to have some ability to be able to keep his own counsel and try to do something if it means the kinds of things that you indicated.

Mr. STOKES. Well, let me just see if I can understand.

In terms of notice, under section 501, the President has two alternatives, doesn't he?

Mr. SPORKIN. Three. That is what we just—you might want to cede some of your time to Senator Mitchell. I think we agree to that. There are three alternatives.

Mr. STOKES. Under extraordinary circumstances, the President has the option of notifying the eight senior members of the Congress, is that true?

Mr. SPORKIN. Right.

Mr. STOKES. Or he can come to Congress and notify both of the intelligence committees?

Mr. SPORKIN. Right. We are talking about prior notice at this time?

Mr. STOKES. Talking about prior notice, right.

Mr. SPORKIN. OK.

Mr. STOKES. Now it is your interpretation there is a third?

Mr. SPORKIN. That is right. A deferred notice, and that is where I think Senator Mitchell and I got into that unfortunate——

Mr. STOKES. I don't what to usurp Senator Mitchell's ground. So I will leave that for him.

Mr. SPORKIN. Congressman, the only point I was making, if you look at the next provision, it does say when you don't give prior notice, you must give notice in a timely fashion. So that has to mean something.

Mr. STOKES. Let's talk about timely notice a little bit.

Do you feel it was legitimate for the President to have withheld notice of the January 17, 1986, Finding for as long as he did?

Mr. SPORKIN. Congressman, I think you are puttting me in a very difficult position, and I am not going to—to ask me to rule on a matter like this, I think would be wrong for me to do so. I don't know. I don't know what kept it. I—remember I left a very short time after this was signed.

Mr. STOKES. All right. It is not my intention to put you in an awkward position at all.

Mr. SPORKIN. I do not want to give my view as to whether it was too long or not too long.

Mr. STOKES. All right. Let me ask you this. Do you believe if this operation had not leaked that the President would have had the right, as you understand the law, to have withheld notice until all American hostages in Lebanon had been freed?

Mr. SPORKIN. Well, I don't know if all, but I think those that were contemplated by that. That is—that, I think, was his decision. That was his decision.

Mr. STOKES. You would not want to interpose your opinion on that?

Mr. SPORKIN. I would prefer not to, but I think that was a decision made and one of the things that the provision says is that when he withholds notice and then gives it, he has got to tell you why. And if you read this legislative history, it indicates that Congress is supposed to take him to task on that. And to go back and I would assume under a system that we are operating under, to call him to task for that, for doing something.

Mr. STOKES. Let me ask you this. Do you believe that if covert action involves possible risk to life, and also involves significant policy changes, that such an operation still can be kept from the Congress for months and perhaps years?

Mr. SPORKIN. I think it would be wrong to do so. Again, I am not going to say it would be illegal.

Mr. STOKES. Judge Sporkin, during the January 16, 1986, meeting that you attended in the White House, when was it suggested by those attending there that Congress would be told about the Iran initiative?

Mr. SPORKIN. It was suggested, my recollection as soon as the hostages were out.

Mr. STOKES. Did someone at that meeting advance the suggestion that Congress might not be told then until the President left office, that is, if all the hostages had not been freed by that time?

Mr. SPORKIN. I don't think it was put that way. It was put a different way. It was saying this President is going to have to make a report to this Congress to justify what he did even if it means the last day in office. That is the way it was put, not the other way.

Mr. STOKES. Well in essence, though, what it meant was that he might not get around to notifying the Congress until his last day in office, didn't it?

Mr. SPORKIN. No. I think it meant—well, I think it meant as soon as the hostages were out. I don't think it was contemplated that they would take that long. But I think it was meant to emphasize that this was not going to be—that it wasn't going to happen that the President was going to, in effect, ignore that—that recommendation that you will see in one of my documents, that there will be notice.

Mr. STOKES. What if—let's assume that all the hostages were not out by the time the President left office. What then would happen? He would leave office without notifying Congress?

Mr. SPORKIN. No, sir. That is not my understanding. That he would make a report. This was his—this happened on his watch and he was going to take care of it. Again, this is not the President. I think it is being unfair to tar the President with this. This is what his advisers are saying. It is not the President. He might have disagreed with that.

Mr. STOKES. But as his advisers, they are acknowledging that it might be his last day of office before he notifies the Congress?

Mr. SPORKIN. I think that is too strong, Congressman. I think that was said as I said it was said. That even if it meant this is a President that is going to have to account for his actions.

Mr. STOKES. Judge, did you ever speak with Dewey Clarridge about Agency involvement in the 1985 transfer of weapons to Iran on November 25, 1985, or any other time?

Mr. SPORKIN. I don't—well—let's take the November 25 date. That is clear. No.

When you say at any other time, I have no recollection. I don't believe I did.

Mr. STOKES. It is your best recollection that you have not at any time talked with him about the Iran situation?

Mr. SPORKIN. I don't recall that. Yes. I have no recollection. It is—clearly on the 25th, we did not.

Mr. STOKES. What did you understand to have been Mr. Clarridge's role in the shipment of arms to Iran?

Mr. SPORKIN. I think—does his name come up in one of the papers that I have seen? I think I saw some paper, but again, this is not—I am not testifying on what I knew at the time. I am testifying as to what I saw where somebody was—where I think I was being briefed. I think there is a document that involves Mr. McMahon in which he might have mentioned Mr. Clarridge's name in it. But that is about all I know.

Oh, that Mr. North had come to Mr. Clarridge and—when they were having trouble in getting this shipment through, and that is—I think that is the recollection. But that came within months since this thing all became public.

Mr. STOKES. Well, was this in connection with your discussion with Mr. McMahon that Clarridge came up?

Mr. SPORKIN. No, sir. No sir. That was not mentioned to me.

Mr. STOKES. Give us just the best recollection you have of what knowledge you had as to what Mr. Clarridge was involved in?

Mr. SPORKIN. At the time?

Mr. STOKES. Yes, sir.

Mr. SPORKIN. Nothing.

Mr. STOKES. You just learned what you have learned subsequently, is that correct?

Mr. SPORKIN. In preparation of these various hearings that I have been to.

Mr. STOKES. Were you aware that after you had told Mr. McMahon in November 1985, that a Finding was necessary, and after the draft Finding had been sent to the White House for the President's signature, that Mr. Clarridge continued to make arrangements for additional shipments of arms to Iran? Were you aware of that.

Mr. SPORKIN. Was—what time?

Mr. STOKES. It would have been after you had told Mr. McMahon in November of 1985, that a Finding was necessary.

Mr. SPORKIN. I am not aware of that. I wasn't aware of it.

Mr. STOKES. If that did occur, would you say that such logistics planning and other arrangements were consistent with your opinion that a Finding was necessary for any future efforts to ship arms to Iran?

Mr. SPORKIN. I am sorry I didn't get that. Would you repeat that?

Mr. STOKES. Would you say that such logistics planning and other arrangements were consistent with your opinion that a Finding was necessary for any future efforts to ship arms to Iran? Assuming that Mr. Clarridge did that?

Mr. SPORKIN. You know——

Mr. STOKES. I guess what I am asking you is you had—at the time that you were consulted by Mr. McMahon, you represented that a Finding was necessary. And you said that any shipments of this sort, in the absence of a Finding, would not be in accordance with law.

Mr. SPORKIN. No. That is not what I said. What I said was—I think it is—we ought to have a Finding here, and that is what my point was, is that we ought to have a Finding.

Mr. STOKES. So any action by any officials in the CIA, in the absence of a Finding, would not be legal, would they?

Mr. SPORKIN. As I mentioned, I didn't make that determination at that time. I think a good argument could be made that it was, that would be legal. I said I don't deal on that level, that I thought we should have a Finding to permit us to continue in this activity.

Mr. Chairman, Chairman Stokes, the point I am trying to make is we were a very small part of this operation, and yet, through my suggestion that we have a Finding, we were driving the operation. We were the tail that was driving this thing.

I am not prepared to say because a proprietary has done something, in the minimal way that it did it, that it was required—if you ask me. But it certainly was prudential to have it.

Mr. STOKES. One of the reasons that you wanted to make it retroactive was to give it the color of legality, wasn't it?

Mr. SPORKIN. One of it was to make sure that not only the—what happened was that you had that 48-hour period which the—our agents were—had engaged in this activity. And I wanted to make sure that they were taken care of.

Mr. STOKES. But it had nothing to do with whether or not their action had been legal?

Mr. SPORKIN. I did not sit down, as I testified—I did this in such a short period of time. It was within—you know, less than an hour. And I didn't think I had to make those judgments.

Now if somebody pressed me, then I would go back and make them, but I wasn't—I would have said it seems to me you always can do more than is required.

Mr. STOKES. Judge, weren't you confronted with this situation? Mr. McMahon had called you up and explained to you over the phone he had a highly sensitive matter that needed your attention immediately. He then said to you that I am going to send two people over to you immediately and when they came over, they presented you with a highly unusual situation, did they not?

Mr. SPORKIN. That is true.

Mr. STOKES. This is not a normal situation to know we have had a proprietary ship some missiles to Iran.

Mr. SPORKIN. You are right.

Mr. STOKES. Right. And also, as a lawyer, when you approached this matter, you realized that a Finding is necessary when you engage in this type of activity on behalf of the U.S. Government, isn't that true?

Mr. SPORKIN. Well, again, what I wanted was to make sure that this was being—these requests were coming from the top. We had—what I was told, that we have people from one Agency talking to another in which they are involved in a very, very sensitive operation.

And I didn't know where that came from, and my point was to raise it to the highest level. If you could see throughout this whole story—what was I doing all the time—get it up to the top. Get it up as far as you could go to the top to have the highest level of people focusing on this point.

These are very important decisions that were being made and they had to be made at the highest levels.

Mr. STOKES. In order to give it the legality that it needed, is that not right?

Mr. SPORKIN. In order to give it not only the legality—you say the legality. No. I don't think it was required on the legal end of it.

But in order to give it the fact that the—you had the right kind of people considering these matters.

You don't want a government operating where you have—and I don't want to use the word "low level," but at this time in the afternoon, I am having difficulty getting the proper word. But somebody that is beneath a high official doing that with somebody—else and making some very, very sensitive kind of decisions that could affect the entire country.

You wanted to get these to the highest levels all the time.

Mr. **Stokes**. I agree with you, Judge, and I think that is the reason why you wanted a Finding; isn't it?

Mr. **Sporkin**. That is right.

Mr. **Stokes**. Right. And in the absence of people doing this type of thing without a Finding, they are carrying on government illegally aren't they?

Mr. **Sporkin**. You can ask for a Finding even though it is not required by law. That is the only distinction I am making with you. My point was I did not make that determination that a Finding was absolutely necessary.

Mr. **Stokes**. All right. Judge, let me ask you this. My time is about to expire.

Mr. McMahon's recollection of his discussion with you about the November 1985, mini-Finding is that your advice was that a Finding was necessary more because of the attempt to influence a foreign government than because a CIA proprietary was used to ship the arms.

Do you recall making that statement to Mr. McMahon?

Mr. **Sporkin**. I don't recall it. It could be. I don't recall it.

Mr. **Stokes**. But you agree that is an accurate statement of the law?

Mr. **Sporkin**. I would agree obviously if there is an attempt to influence a foreign country, that that is certainly a—to be considered in the Finding and is required. Yes. I agree with that.

Mr. **Stokes**. Because the Hughes-Ryan amendment says, in fact, doesn't it, that any activity the Central Intelligence Agency oversees other than one solely for the collection of intelligence is a covert action and requires a Presidential Finding; isn't that true?

Mr. **Sporkin**. It says if any appropriated funds—it is a funding—it is a limitation on funding, Congressman. You know, that, again, goes to the question whether these were appropriated funds. I didn't make those decisions.

I didn't have to. You know you had a proprietary here. Is that appropriate——

Mr. **Stokes**. I am just asking if that entered into your decisions and your conversation with Mr. McMahon?

Mr. **Sporkin**. My decisions are, look, here you had the United States that are delivering weapons to Iran and, I mean, even I knew that that was—that was a bell ringer, and I rang the bell.

Mr. **Stokes**. Thank you, Judge.

Thank you, Mr. Chairman.

Mr. **Sporkin**. Thank you, Mr. Chairman.

Chairman **Inouye**. Senator Nunn.

Mr. **Nunn**. Thank you, Mr. Chairman.

Judge, you mentioned this morning and read from the Intelligence Committee transcript about our dialogue which we had, I guess it was last fall. Seems like years now.

Mr. SPORKIN. Yes.

Mr. NUNN. The answer to my question, and you quoted your answer, you said, "If the President orally tells somebody to do something or authorizes an act, I think he ought to be able to 3 weeks later finish up the paperwork and say I ratify this."

That was when we were talking about Findings; is that correct?

Mr. SPORKIN. That is right.

Mr. NUNN. Is that still your view, that the President can give an oral, essentially an oral authorization and later on, 3 weeks later, come in and put that in writing?

Mr. SPORKIN. Well, yes. Again, you are pressing me on the area of the—of an oral Finding, and I think it is—you know, I think I have seen some even Justice Department papers that indicate an oral Finding is proper.

I am not going to quarrel with that.

Mr. NUNN. So if we want to make sure that Findings are in writing, we on the Intelligence Committee, so that the people in the CIA and others carrying out these covert activities know that they are being protected, so if we want to do that, we need to change the law?

Isn't that the essence of what you are saying?

Mr. SPORKIN. Well, again, I don't want you to do it because of what I am saying.

Mr. NUNN. You were the counsel for the CIA. You are testifying to that. You have given them that advice, and you are still here saying that as a Federal judge, and it seems to me——

Mr. SPORKIN. Well, Senator, I would hope that—you know, I have answered a lot of questions on the law that maybe I shouldn't have answered today, because I am a Federal judge. I think that that is—I would hope that you don't take from this——

Mr. NUNN. I will strike that. Let me just say you were counsel for the CIA, and last fall you said before the Intelligence Committee that oral Findings are all right, as long as they are ratified later by written Findings by the President.

Mr. SPORKIN. Yes.

Mr. NUNN. All I am asking you is in your former capacity as the general counsel for the CIA, if Congress believes that Findings should be in writing, we had better change the law. That is my opinion.

I ask you for your comment.

Mr. SPORKIN. By the way, I think there is something—there is another provision of law where that is required. Where they say it has to be in writing.

Again, I am not the one that is advocating oral Findings. You know, if I am sitting around, I am going to require that all Findings be——

Mr. NUNN. I understand that. You wanted to make sure it was in writing. You wanted to repair the damage to the extent there had been damage. And I think that was—I understand that position.

What I am saying for the future, we had better address the subject of whether we want Findings to be in writing. And if we do, we had better change the law.

Mr. **Sporkin**. That is up to you. I mean, it is up to the Congress.

Mr. **Nunn**. I am asking you, is that——

Mr. **Sporkin**. I hope you are not going on my recommendation.

Mr. **Nunn**. We were not going to call it the Sporkin bill. I just want to know your opinion of it.

Mr. **Sporkin**. If that is what you want, obviously, you know, change it.

Mr. **Nunn**. Now——

Mr. **Sporkin**. Senator, let me mention this to you. There may be instances again where the President ought to have a leeway of a short window of opportunity where he can tell somebody to go out and do something and worry about the paperwork later on. I would say that would be one possible exception. But only one.

Mr. **Nunn**. You see, I agree with that. I think any time we are forced by executive action to write laws so tight that the President has no discretion at all, that is the ultimate erosion of executive authority. But interpretations such as you have given force the Congress into that kind of absurd exercise, because obviously if you can do—if you can delay a written Finding for 3 weeks, then there is no reason you can't delay it for 3 months.

What, in effect, these kinds of rulings do internally, it forces the Congress into the absurd position of legislating rigidities, and forces the President into no discretion and then forces the agencies into a whole lot less flexibility. So the net result of this kind of legal gymnastics, it seems to me, is to put us all into a rather unfortunate position in trying to conduct sensible foreign policy.

That is an editorial. I won't ask you to comment on it.

Mr. **Sporkin**. I do want to comment on it. You know, you put me in a situation where you ask me a hypothetical question. I give you an answer. But the point is that that is not what I was advocating, that is not what my belief is, what I did in this case is, we were talking about 48 hours. We weren't talking about 3 weeks.

Mr. **Nunn**. I asked you a hypothetical. We got a hypothetical answer. We have to basically use hypotheticals to frame laws. That is unfortunate, but it is true.

One other question: You said that Findings can violate some laws or override some laws; executive Findings, Presidential Findings can override some laws. Now how do we tell which laws the President can override by a Finding?

Mr. **Sporkin**. When I was using the word, "override," I think really the point is that you interpret the law whether it was intended to apply in a situation where the President——

Mr. **Nunn**. You would have to read the law itself?

Mr. **Sporkin**. Absolutely.

Mr. **Nunn**. Case by case, law by law.

Mr. **Sporkin**. Absolutely.

Mr. **Nunn**. And you have to have some discretion in that law and in the Executive before you would be able to override it; is that right?

Mr. **Sporkin**. Yes, but, Senator, I was saying something else. Particularly where you talking about laws with notification provisions in them. In my view, you can come to that result by going down maybe three different streets, all the same way, and it seems to me where you have those options, that those are the kinds of laws that I think make sense; that you ought to be able to pick what I consider to be the most preferable option.

And by the way, the statutes themselves allow for it. Because you take the statute that we are talking about, 501. There is a provision there that says that any shipment of arms, it was just put in last year, as I recall, over a million dollars must go through the reporting requirements of—notification requirements of 501.

Now, that, it seems to me, indicates that the Congress is contemplating there can be covert shipments, and I don't think you meant to say that you would put—if those covert shipments were done, that you are going to require they comply with the export-import—all the other provisions that might apply.

So Congress itself is recognizing it. It is not me. It is Congress.

Mr. NUNN. I understand. But when discretion is given by Congress in the Executive Branch, the President, to exercise that discretion, with good judgment, then that is where government works best.

Mr. SPORKIN. I agree with that.

Mr. NUNN. But where good judgment is not exercised, discretion is usually taken away. Then both branches of government suffer and the national security suffers. So it is the abuse of that discretion that causes the rigidities that make foreign policy in this nation very difficult to conduct today.

Mr. SPORKIN. Senator, I agree with that statement.

Mr. NUNN. Thank you. Thank you, Judge.

My time has expired.

Chairman HAMILTON. Mr. Hyde?

Mr. HYDE. Thank you, Mr. Chairman.

I am going to have my one little exhibit put up. It doesn't compete very successfully with all of these Findings, but I don't know if you can read that or not.

Mr. SPORKIN. I have a copy of it.

Mr. HYDE. Would you take a look at that? That hasn't been discussed today, and I think it is germane, to use a word not too familiar in the upper chamber, germane with what we are talking about.

Section 1732 of Title 22 of the U.S. statutes entitled, "Release of Citizens Imprisoned by Foreign Governments. Whenever it is made known to the President that any citizen of the United States has been unjustly deprived of his liberty by or under the authority of any foreign government, it shall be the duty of the President"—Notice the mandatory form. It doesn't say seek a Finding or reduce it to writing and communicate it to the eight leaders.

It says, "It shall be the duty of the President forthwith to demand of that government the reasons of such imprisonment and if it appears to be wrongful and in violation of the rights of American citizenship, the President shall forthwith demand the release of such citizen, and if the release so demanded is unreasonably delayed or refused, the President shall use such means, not amounting to acts of war, as he may think necessary and proper to obtain or effectuate the release; and all the facts and proceedings relative thereto shall as soon as practicable be communicated by the President to the Congress."

It seems to me here is a statute that has been on the books for one hundred and some years. It was passed in 1868. It says the President shall do anything and everything short of a declaration of war, which, after all, is the prerogative of Congress, to release hostages. So under this statute, which is still in force and effect, and it seems pretty unambiguous in contrast to the other statutes which we will look at in a minute, and try to get into the legislative history. It seems to me the President has a warrant here.

He is commanded by the Congress to do any means—exercise any means at all short of war to effectuate the release of hostages. Now, you are a federal judge. I know it is improper to ask federal judges for their interpretation of the law, so I won't ask you if you think this law means what it says, but you will take judicial notice of this law, will you not, if indeed a similar situation should ever arise again in your career, all right?

Mr. SPORKIN. You are salting the mine a little bit, huh?

Mr. HYDE. Yes. I just thought I would call that to everybody's attention, because, we have been kind of overlooking that as we——

Mr. SPORKIN. I don't know if this is given as much weight as the Neutrality Act. But I hope it is given more weight.

Mr. HYDE. If it is on the books, I don't know who decides weight or who doesn't. It would seem to me unless some laws are more legal than other laws, we ought to consider this when we are analyzing the situation. Now let us take a look at the legislative history.

The debates of Congress, when it analyzed the question of Presidential rights, Presidential constitutional powers, Congress' right to be notified, and I find in the Congressional Record on September 30th of 1980 the chairman of the House Intelligence Committee commenting on the ambiguities in the law. And he says, and I quote, "The President has made clear his belief that under some circumstances he may have the constitutional authority to withhold prior notice. Of course, the Congress has certain constitutional authorities as well as its own opinion on such constitutional theories.

"The conference report neither asserts not denies a constitutional right to withhold prior notice. Rather it recognizes that there exists authorities and duties for both executive and legislative branches of the government, and most importantly it leaves the Constitution as it finds it," which I thought was pretty nice of Congress to leave the Constitution as it found it.

"When prior notice is not given to the committees or to the smaller group of eight, the conference report makes clear that the full Intelligence Committees must receive reports on the covert action operation in a timely fashion. In no case would the committees be denied a report under this provision."

So it seems to me that Congress in enacting this law recognized a difference of opinion and that the President asserted a right to withhold prior notice. Congress recognizes that right, but in any event, ultimate notice must be given in a timely fashion. Of course, what means a timely fashion?

I suppose it depends on your perspective. I would concede that 10 months is not a timely fashion, but, again, it is the event and the nature of the event, rather than the calendar or the clock which may determine what is a timely fashion. Because we have had testimony from previous CIA Directors that a matter of months may not be untimely in terms of freeing hostages in Iran.

The Canadian Embassy was very helpful to us in the freeing of six people. Sometimes a third country doesn't want notice kicking around the Hill for fear that it just might leak.

Mr. HYDE. If I may be—it seems like an awfully fast clock. At least you haven't hit the gong.

Chairman INOUYE. You have had 7 minutes.

Mr. HYDE. I've had seven. Well, then, I will forgo suggesting to you about how leaks do happen, even from this committee. But we will save that for another time.

Thank you, Judge.

Chairman INOUYE. Senator Trible.

Mr. TRIBLE. Thank you, Mr. Chairman.

Judge Sporkin, let me ask you just a couple of quick questions. First of all, are you aware of any other situation where covert actions were undertaken by government officials without the assistance of the CIA but with the assistance of a network of private people?

Mr. SPORKIN. That is a hard one for me. I want to say no, but I want to absolutely give it to you as clear as I can. There is just something in my mind which obviously we can't discuss here, that possibly would fall within the ambit of your question, which I obviously can't discuss with you.

The answer is probably no. I think what I am probably thinking of is something that probably doesn't meet your question anyway.

Mr. TRIBLE. Judge Sporkin, the question is plain.

Mr. SPORKIN. I know it is.

Mr. TRIBLE. I want you to be certain of your response. Is it yes, no, or maybe, or we can't talk abut it here today?

Mr. SPORKIN. Let me get—is the question do I know of any other instances where covert actions are being conducted other than through the CIA?

Mr. TRIBLE. That is a good beginning.

Mr. SPORKIN. The answer is, I can't give an answer on that. I mean, I want to give you a truthful answer, obviously, and you know——

Mr. TRIBLE. All right, sir.

Are you aware the CIA contributed funds to the DEA——

Mr. SPORKIN. By the way, I hope nobody takes it as a big thing here. It is not, believe me—and I because that you probably know what I am going to say, but I just can't—I don't believe I can say that in public.

Chairman INOUYE. Judge, would you speak into the mike, sir?

Mr. TRIBLE. We will move on, Judge.

Are you aware that the CIA contributed funds to a DEA operation to rescue the hostages?

Mr. SPORKIN. Only what I have read in the newspaper.

Mr. TRIBLE. Assuming the accuracy of that report that the CIA contributed financially to that DEA operation. Should there have been a congressional notification and/or a Presidential Finding?

Mr. SPORKIN. I will pass. I just don't think it would be appropriate for me to give you an advisory opinion on that. I just don't think I want to do that. I would have to know a whole lot of facts, and I just don't think, I had nothing to do with it, and for me to give a ball park opinion based upon something I read in the newspaper I don't think I would like to do it even though—well, I will leave it at that.

Mr. **Trible**. Tell me about the congressional notification provisions that apply to the CIA. Are you familiar with those?

Mr. **Sporkin**. I am familiar with the ones that we have been talking about today.

Mr. **Trible**. And you are familiar with the times when the Presidential Finding is necessary under the law?

Mr. **Sporkin**. That is correct.

Mr. **Trible**. You were the Chief Counsel, were you not, to the CIA?

Mr. **Sporkin**. Yes, I was.

Mr. **Trible**. You have been called upon to make decisions and judgments about Findings and notifications?

Mr. **Sporkin**. That is correct.

Mr. **Trible**. I see. But as a judge, are you, you don't want to make an advisory opinion here. Is that what you are telling us, Judge? You certainly have the legal competence to make that judgment, do you not?

Mr. **Sporkin**. Well, I—that is for others to determine, but I hope I do. I will tell you this, this has been about the toughest bar exams I think I have ever had. This one I have had today is really some bar exam.

No, I am not trying, believe me, Senator, I am trying to be as helpful as I can, but I don't think I ought to be sitting here and I don't think you called me for the purpose of sitting here and trying to give you legal opinions about a lot of things that have occurred in the newspaper. I think that probably would be inappropriate to do that to a judge and that is why I don't want to do it. I am here to tell you on my watch, what happened, and I think that is what you really want from me.

Mr. **Trible**. These activities did happen on your watch, Judge Sporkin, even though I know in regard to the last question you were not personally familiar with the circumstances. So I am not going to press——

Mr. **Sporkin**. The DEA? What was the date of the DEA activity?

Mr. **Trible**. I am not going to press that matter.

Mr. **Sporkin**. Is there a date on that because I could——

Mr. **Trible**. I am not sure of the exact date, Judge Sporkin, but the reason that we have asked these questions is that you were on watch. And you were called to pass judgment on the legal questions before this committee.

Mr. **Sporkin**. I was not.

Mr. **Trible**. You were in that capacity as Chief Counsel. And so your thoughts and ideas and insights are important to us and it was in that vein that the question was asked.

Mr. **Sporkin**. Well, no, I will answer. If that was on my watch, if you told me that I am going to answer it, because I had no knowledge of that DEA problem until I read it in the newspaper.

Mr. **Trible**. Mr. Woodcock, what was the date?

Mr. **Woodcock**. Senator, those operations began in January of 1985. As far as we have been able to determine they concluded sometime around June of 1986.

Mr. **Sporkin**. If it were, I was not advised—I did not know about it.

Mr. **Trible**. You were on watch then?

Mr. **Sporkin**. I was on watch until February of 1986, and I must tell you I have no recollection of that matter being put to me.

Mr. **Trible**. Fair enough.

Thank you, Judge.

Chairman **Inouye**. Thank you very much.

Chairman Brooks.

Mr. **Brooks**. Thank you, Mr. Chairman.

Judge, I want to make one observation in following up on the comments you had with Senator Nunn, that you made a judgment that oral Findings were adequate, and I want to bring to your attention that there is a National Security Directive No. 159, which has been partially declassified, with which I trust you are familiar. But in that it says, and it was issued, you know, right after the CIA was—it came to public notice the CIA had covertly mined several harbors in Nicaragua, then they drew up this directive. This directive specified that Findings would be in writing and reported to the Congress as required by the law.

Did you research that? Did you look that over before you wrote that opinion?

Mr. **Sporkin**. What opinion?

Mr. **Brooks**. Well you—you gave the judgment that you thought oral Findings were adequate.

Mr. **Sporkin**. Chairman Brooks——

Mr. **Brooks**. You don't think they are?

Mr. **Sporkin**. No. No, your—I've got—your premise is wrong.

Mr. **Brooks**. Yes?

Mr. **Sporkin**. I never gave an opinion on oral Findings except in our discussion between Senator Nunn and myself.

Mr. **Brooks**. You didn't write that?

Mr. **Sporkin**. No. He asked me, I was invited to testify before the SSCI when this broke, and what happened was that he asked me what do I think is an oral Finding—not that it's adequate. Would an oral Finding be legal? And I gave them my best judgment at that time that it would be legal, but it wasn't an opinion in writing. It wasn't an opinion that——

Mr. **Brooks**. Well, Judge, if you had looked at that National Security Directive put out by the National Security Council, would you still have that feeling?

Mr. **Sporkin**. I've got to read it.

Mr. **Brooks**. All right.

Mr. **Sporkin**. I've got to familiar—I probably saw it at that time, but I'm not going to—and I can now see——

Mr. **Brooks**. Now you remember——

Mr. **Sporkin**. No, No, No—but the—the problem I'm getting is getting whip-sawed and that bothers me because somebody asked me to give the best view I can, I do it. And somebody says—well, when you gave that opinion, and that's the thing that concerns me. I'm trying to be helpful—I'm trying to be helpful, and I don't think I ought to be nailed for being helpful.

Mr. **Brooks**. The directive was available to you, wasn't it? When you were the head of the security——

Mr. **Sporkin**. It wasn't available to me when I testified before Senator Nunn, and I got to read it because I don't know what it says.

Mr. **Brooks**. I think it is a little late probably for you to read it. But, Judge, I've got a couple of other questions.

Would you look at exhibit 15. I believe you testified this morning that when you saw this draft Finding, and it was you that had the words "and third parties" added in the first paragraph under description; is that correct?

Mr. **Sporkin**. Yes.

Mr. **Brooks**. If you look at exhibit SS-18, a Finding dated January 17 of 1986, I believe it incorporates those three words, makes no other change whatsoever in the January 6 draft.

Now, it appears that the President signed both of them, the 6 and the 17.

Mr. **Sporkin**. That's correct.

Mr. **Brooks**. With only that addition, of three words.

Mr. **Sporkin**. Yes.

Mr. **Brooks**. And was it significant enough to have the President sign a new Finding, and if so, what did—why was that? I don't understand it.

Mr. **Sporkin**. Why I put the "third parties" in there?

Mr. **Brooks**. Yes, "and third parties."

Mr. **Sporkin**. The only thing was, when I was reviewing this draft, I noticed that in the second paragraph it says "third parties." In the first paragraph, it doesn't have "third parties," and I sat down and I wrote it in, "and third parties"—I think I was told at that time that this was going to have to go back anyway to the President, and I said, "Fine, if it goes back, put it in." I wouldn't have said that it was absolutely required.

Mr. **Brooks**. Well, when all of them—was it in the first paragraph was it "third parties," the description? You added it in there, right?

[Witness nodded affirmatively.]

Mr. **Brooks**. Now why did you want to do that and not add it in the bottom of that paragraph where you had third countries—you just mentioned third countries. If it is going to be all the same, twice you want to put it in "and third parties," the third time you use third countries, you don't want to put "and third parties"?

Mr. **Sporkin**. Where is that?

Mr. **Brooks**. Title 15—I mean exhibit 15.

Mr. **Sporkin**. You mean back in the end——

Mr. **Brooks**. Yes, the first one.

Mr. **Sporkin**. Don't give me the opportunity now. I did probably, let's see—"third countries in support of these activities." Well, I don't think we are going to give intelligence to these third parties, provide funds, intelligence, counterintelligence——

Mr. **Brooks**. Judge, you added it in the first paragraph in one place but not in the other, and I just wondered, I can't understand why it is so important to have to go back to the President. Was there any reason for that?

Mr. **Sporkin**. No, I don't think it was—that was the reason it went back to the President. I think I was told this was going to go back to the President, and therefore I wrote it in and said, "Fine, if goes back"——

Mr. **Brooks**. But there were no other changes in it. Why would it go back if there were no changes but that? Did it make sense to you? I just you know——

Mr. **Sporkin**. I would have probably told them, "Don't send it back just for this," but it is not in there and I wrote it in. That's my handwriting.

Mr. **Brooks**. But you don't know why you did it?

Mr. **Sporkin**. Yes, because of the symmetry here. It is in the second paragraph, it is not in the first paragraph.

Mr. **Brooks**. But you didn't put it in both places in the first draft—paragraph when you mentioned—you dismissed that one. You didn't send it back a third time.

Mr. **Sporkin**. I don't know if it pertains to the bottom sentence. It could be, but I'm reading it now, and I don't know whether we would be providing intelligence to these third parties; I don't know.

Mr. **Brooks**. I just don't understand that, Judge. It still seems weird to go back to a President with that three lines in it, nobody has any——

Mr. **Sporkin**. Again, I wasn't recommending that it go back, but I think I was told that it was going to go back anyway, and I said, "If you are going to go back anyway, add the 'third parties.' "

Mr. **Brooks**. Well, Judge, take a look at exhibit SS-17. It's got a memorandum apparently reflecting a telephone call between you and the associate general counsel. Now that conversation concerned a proposal by which the DOD would provide weapons to a CIA agent who would pay for the weapons with money supplied by a friendly third country. The agent would then supply the weapons to the intended recipient country. The agent would have no connection with the CIA other than to act as a middleman with our authority.

Now, does this describe the role that General Secord was expected to play and in fact did play in this transaction?

Mr. **Sporkin**. This was another proposal, Congressman. This was a proposal to have the DOD do it rather than under the Economy Act. This was to have the DOD do it.

It could be that they were talk—that the agent would be the same. I don't think that name was mentioned at that time, because, as I recall, I told you that when I heard his name mentioned, I raised an objection to it.

Mr. **Brooks**. Now, would it have been contemplated that this agent, whoever he might be, would be paid an amount equal to whatever profits he could squeeze out of the transaction?

Mr. **Sporkin**. I don't recall that coming up or being discussed, or it was something that I was not—if it was, it was something I wasn't focusing on.

Mr. **Brooks**. Now you said this morning that you thought the CIA had established a very effective and workable system of accountability following the Congressional hearings in 1970.

Mr. **Sporkin**. That's correct.

Mr. **Brooks**. That was before you went over there.

Mr. **Sporkin**. Was it after 1970? I think it was a little later.

Mr. **Brooks**. In the 1970s.

Mr. SPORKIN. It was in the 1970s, that's right.

Mr. BROOKS. Under this system of accountability, would you not have expected all of the proceeds from weapons sales such as these to come back to the U.S. Government and be accounted for by the agent, paying him instead some reasonable amount for his services?

Mr. SPORKIN. I think what I mentioned this morning was when the CIA used its proprietaries—this was not to be done by a CIA proprietary, but I would agree with you, that there should have been some system of accountability here.

Mr. BROOKS. And you agree the money should come back to the United States?

Mr. SPORKIN. Well I agree that I was as—I am as—I don't know the best word to do it but I was not happy to hear of all these profits. I didn't think that that was anything that was being contemplated when I was discussing this matter.

Indeed, what I was worried about was we were going to get paid, because I thought it would be very easy for the Iranians to take the weapons and not pay us, and what could we do about it? You can't bring a lawsuit.

Mr. BROOKS. I understand.

No further questions, Mr. Chairman. Thank you. My time has expired.

Chairman INOUYE. Senator Boren.

Mr. BOREN. I'll pass.

Chairman INOUYE. Congressman Courter.

Mr. COURTER. Judge Sporkin, trying to refresh your testimony of a little bit earlier today, you made what I thought was an interesting comment and I would like to have you elaborate. You mentioned the fact that in one of the first and early drafts of a Finding there was in the draft a statement about the fact that the President was not to notify the Congress immediately and you said that was your idea. You said it was your idea alone and words to the effect that if anyone rises and falls on the lack of notice, it should be you.

Mr. SPORKIN. That is correct. That was on the first draft where it was deferred notification. That was my idea.

Mr. COURTER. So it was your idea and you put it in the first draft, the idea of not immediately or simultaneously notifying the Congress of the United States.

Mr. SPORKIN. You're accurate.

Mr. COURTER. Did Oliver North or anybody else urge you or recommend that you put it in that first draft?

Mr. SPORKIN. Oliver North had nothing to do with the first draft. The only people that had something to do with it was, as I mentioned, McMahon and two people came over and advised us as to the facts, I listened to them, I had three problems, and I tried to deal with the three problems. And one of the ways of dealing——

Mr. COURTER. Without putting words in your mouth, I assume the reason you did not want to prior notice the Congress was your concern about the safety of the hostages and the high sensitivity of the subject matter.

Mr. SPORKIN. That's partially true, that's correct.

Mr. **Courter**. Obviously at that particular time, since it was your recommendation not to notify the Congress, you thought it was legal not to notify the Congress immediately.

Mr. **Sporkin**. That goes without—not only did I think it was legal at that time, I think it is legal today.

Mr. **Courter**. There's some confusion about the testimony. I know everybody is trying to nail you down on this thing, but your opinion then and your opinion today, in fact you originated the idea was the fact the notice didn't have to be simultaneous.

Mr. **Sporkin**. Or prior notice. The point is, again I don't know whether that's really debatable, if it is I would like to hear it. But notification, that prerogative of the President is there. Unless I'm all wet.

Mr. **Courter**. The Finding which is the subject matter of this whole inquiry went through various drafts, Judge Sporkin. Is it unusual for Findings to go through various drafts?

Mr. **Sporkin**. Which Finding are you talking about?

Mr. **Courter**. I'm talking about the ultimate Finding which was signed by the President on two occasions, January 3d and I think January 16th.

Mr. **Sporkin**. I don't want to confuse the first Finding that we are talking about. That Finding went forward and that was it. That one went very easily. Again I'm surprised when I look at it, I actually dictated it I think as it was reconstructed by your staff. I dictated it and when you look at the dictation versus what came out, it is virtually the same. I didn't think I could do it—could dictate that well. But the next one, yes, they went through a number of drafts, but that happens all the time.

Mr. **Courter**. The question I wanted to get out or the answer I was trying to solicit was whether that is unusual, that a document of this importance going through various drafts with various changes?

Mr. **Sporkin**. No, no. Indeed, in those other documents I did not know what role I was going to play. I was asked to be helpful and to supply something. I did. I didn't realize I would be kept being brought back in and back in on this matter.

Mr. **Courter**. Shifting your attention if you could to the Boland Amendment, you indicated that you drafted a, what you called and designated as a compliance memorandum.

Mr. **Sporkin**. That's correct.

Mr. **Courter**. On the Boland Amendment. Could you clarify which Boland Amendment was that compliance memorandum on?

Mr. **Sporkin**. I think it was the very first one.

Mr. **Courter**. Was that the very first Boland Amendment that restricted aid for the purposes of overthrowing the government?

Mr. **Sporkin**. Yes. Yes, I think it was.

Mr. **Courter**. Was there a reason why you didn't draft a compliance memorandum to what we call the more restrictive Boland Amendments?

Mr. **Sporkin**. Well, I didn't think you needed the broad coverage. I did it by talking to the people who were there at Headquarters. The first one you had to get it out to the people in the field.

Mr. COURTER. Yes, but the second and third Boland Amendments, however, materially changed from the first one and was dramatically more restrictive.

Mr. SPORKIN. Yes, but we could control that I thought in the Agency.

Mr. COURTER. By oral conversation?

Mr. SPORKIN. Or telling people, writing them, writing them opinions.

Mr. COURTER. You said, and this interested me as well, that the legal memorandum or compliance memorandum on the first Boland Amendment you felt was even sent to the Resistance, or the Resistance leaders, in order for them to know what they could and could not do.

Mr. SPORKIN. Yes. What are they called, commandantes.

Mr. COURTER. The commandantes?

Mr. SPORKIN. I think so.

Mr. COURTER. I don't think they are the ones called the commandantes, but nevertheless the Resistance movement. Did you send your legal memorandum, compliance memorandum to the Resistance in Central America?

Mr. SPORKIN. I think to the leadership is my recollection. Again I didn't do the sending. That was done by the DO.

Mr. COURTER. I have no further questions.

Chairman HAMILTON. Mr. McCollum.

Mr. Boland.

Mr. BOLAND. Judge, it's nice to see you again.

Mr. SPORKIN. We go back many years, don't we.

Mr. BOLAND. Oh, our association goes back at least 16 years when you were in the Enforcement Division of the Securities and Exchange Commission at the time that Mr. Casey was the chairman of the SEC. Then you rose from an ordinary employee to the chief of the Enforcement Division, a position which Irving Pollack, a mutual friend of ours, occupied just before he was elevated to the commissioner's position itself.

Mr. SPORKIN. He is here today, Congressman.

Mr. BOLAND. The questions have been raised here about, I thought they were words of art, timely fashion. I happen to be the center of the maelstrom that had some reference here by my distinguished friend from Illinois, when we brought the conference report back to the floor in 1980. And I can tell you from personal experience that when the timely fashion provision was drafted, we assumed, I think rightfully so, a degree of comity would exist between any administration and any Congress such that notice would be forthcoming in a very, very short period of time.

It was very difficult, incidentally, to fashion those words at that time. There was great debate within the conference and finally we agreed on the words "timely fashion." But I think all of us would agree that in this particular instance timely fashion doesn't extend to 10 months, or when the President gets around to issuing a Finding on it. But in any event, that's part of the history of those words of art.

Let me ask you, Judge, you had a very close association, high regard, and deep respect for Director Casey, and I can understand that. Based on your observations, do you believe that Colonel North enjoyed a special relationship with Mr. Casey? Something different from the relationship that might be expected from someone in North's job and the Director of the Central Intelligence Agency?

And one of the reasons I ask it is because on January 2 of 1986, you did receive a call from, and I think this is in the record, you have testified to it, from Oliver North in which he instructed you to prepare a broader Finding on the Iran initiative. That was so, was it not?

Mr. SPORKIN. It was a request made, he asked me for my assistance.

Mr. BOLAND. And was it normal practice for a second level official at the NSC to give you, the General Counsel of the CIA, this type of assignment?

Mr. SPORKIN. Well, I didn't look at it that way, but I think as I testified that when it, that when he wanted me to do more than act as a scrivener, I even, as I told you I got Casey off the golf course. But there were other instances where, there was another instance involving a FISA order in which I got a call at midnight from the Colonel asking that I go to the headquarters and I knew that he was an official of the NSC and that he was acting with, I believe he was acting appropriately and with authority.

I mean I don't know of any instance where I believed him to be acting other than in a proper way, on my beat.

Mr. BOLAND. Now, let me ask you, you testified that when you prepared the November Finding it was intended to cover the transfer of some type of missiles to Iran, isn't that correct?

Mr. SPORKIN. Yes. Yes, sir.

Mr. BOLAND. Did you ever discuss your work on this Finding with Mr. Casey and if so, when?

Mr. SPORKIN. Well, there's a document that indicates that we did discuss it and I did discuss—I'm sure I discussed it subsequent to the 25th.

Mr. BOLAND. And did you tell him that it was intended to cover the transfer of missiles? The Finding.

Mr. SPORKIN. I don't recall whether—what specifically we discussed. But he knew about it. As a matter of fact, he must have come back to the country on the 26th and there is a document that indicates my sending him a copy of the Finding. So I would assume he knew about it—from that point of view.

Mr. BOLAND. Did you tell him about it, the transfer of missiles?

Mr. SPORKIN. In a sense, I sent him the document.

Mr. BOLAND. You testified in your draft of the Finding, apparently signed by the President on January 6 of 1986, you added to the list of rationales for its approval the need to improve United States intelligence on Iran. Why did you feel compelled as the CIA's chief lawyer to devise operational justifications for this action when you testified that as a matter of policy, you chose not to insinuate yourself into ongoing Agency operations?

Mr. SPORKIN. That is a fair question, Congressman, but I guess maybe this is one where I was the exception. I knew that to be a fact.

I knew it. I had been involved in attempting to obtain certain penetration from a legal standpoint, and I then did confirm that subsequently, we went over that, and I said I assume that is a fact, that he understood it.

It is—and it is a very obvious kind of thing that if you are able to get this relationship, you are going to get intelligence. You are going to get intelligence concerning the terrorists, you are going to get intelligence concerning the hostages, you are going to get intelligence concerning internal operations.

I didn't think it was such a—I didn't think it was something out of the extraordinary. It was sort of in the intelligence area. It was like bread and butter, I mean. It was an obvious kind of thing.

Mr. BOLAND. Thank you. My time is up. I just want to compliment you on your appearance here and also to indicate that you haven't changed very much in the 16 years I have known you. You are a little heavier.

You are just as voluble, as a matter of fact, even in those days when you were with the Enforcement Branch. You were not the most popular kid on the Wall Street block or in the editorial offices of the *Wall Street Journal.* I think in those positions you occupied in the government, I think you did a fine job.

Mr. SPORKIN. That is very kind. I appreciate those remarks, Congressman.

Mr. BOLAND. Thank you, Mr. Chairman.

The CHAIRMAN. Judge Sporkin, you have been very patient with us. We have come to the end of a long day. However, before calling this hearing to a recess, I have a few questions.

Mr. SPORKIN. Surely.

The CHAIRMAN. You don't have any doubt as to whether the President signed the Findings? Do you have any doubts?

Mr. SPORKIN. I have a doubt as to the first one, because, you know, I haven't seen it. As to the others, we know that.

The CHAIRMAN. Now, you saw the document identified as SS-15, the January 6 Finding.

Mr. SPORKIN. That is correct.

The CHAIRMAN. In which you made the corrections?

Mr. SPORKIN. I have no doubt about that one.

The CHAIRMAN. What about 18?

Mr. SPORKIN. Well, I have no doubt about that, because we all saw that. That is clear. I have it right here.

The CHAIRMAN. So you have no doubts that the President signed those two documents?

Mr. SPORKIN. I cannot say the same about the first one, although I believed it was signed.

The CHAIRMAN. The months of November, December of 1985, and January of 1986, these were the 3 months during which time these Findings were being drafted.

First, you knew that Iran and Iraq were at war?

Mr. SPORKIN. I certainly did.

The CHAIRMAN. You also knew that there were laws on our books and an Executive order that prohibited the transfer or sale of arms to Iran?

Mr. SPORKIN. Yes, sir.

The CHAIRMAN. I am certain you are aware that it was our announced foreign policy that we would remain neutral in the Iran-Iraq war?

Mr. **Sporkin**. I believe I was aware of that.

The **Chairman**. You were also aware that during that period, the so-called friendly Arab nations such as Saudi Arabia and Kuwait were either openly or covertly supporting Iraq?

Mr. **Sporkin**. I can't specifically recall that, but I will accept your premise.

The **Chairman**. I am certain you were also aware that during those 3 months, we were involved in a worldwide campaign of persuasion to persuade our friends and allies not to deal with Iran, to sell or transfer arms to Iran?

Mr. **Sporkin**. I will accept that, Senator. Mr. Chairman.

The **Chairman**. Notwithstanding all of this, the President signed the Findings. Doesn't it bother you?

Mr. **Sporkin**. As a——

The **Chairman**. As the Chief Counsel of the CIA?

Mr. **Sporkin**. No. Well, does it bother me?

My role was to do—to make sure that it was focused on. My role was not to make the substantive decisions, and if you look and see what advice I was giving, was, look, you better make sure that this is handled at the highest level, that you must have input from the 5 officials that I believed were the top people to consider this, and my view was if they all agreed and recommended that to the President of the United States; it is his decision, not the decision of a lowly counsel of an agency.

I was not going to substitute my judgment for their judgment.

The **Chairman**. During your term of office as legal counsel, how many Findings did you author or draft?

Mr. **Sporkin**. Personally, I don't know if there are a whole lot of them. I was certainly—I was—had to sign off on every one of them.

I would say there—you can give me a number. I guess Chairman Boren can tell me how many there are in a year. I don't think there are that many.

Five or six.

Mr. **Boren**. We can't talk about how many there are.

The **Chairman**. Were you ever called in by the President to explain the Findings?

Mr. **Sporkin**. I never talked to the President, Mr. Chairman.

The **Chairman**. Do you know what happened after you passed it on to someone in the White House?

Mr. **Sporkin**. I didn't pass it along. We had the meeting on the 16th of January. Present were the people I mentioned. I told you that the Secretary of Defense wanted to review it legally and he took it back and the next day I was told that he had signed off on it, that he agreed with the legal analysis.

The **Chairman**. Who were present at that meeting?

Mr. **Sporkin**. The Secretary of Defense, the Director of Central Intelligence, the Attorney General, the National Security Adviser.

I think—and I understood that the Secretary of State was supposed to be there. Indeed, I have recently been advised he had been there, but he left before I got there.

I got there after the meeting had already started.

The **Chairman**. Was the President there?

Mr. **Sporkin**. No. He was not there.

The **Chairman**. Was the President advised of this meeting?

Mr. SPORKIN. I don't know that. I don't know the answer to that.

The CHAIRMAN. Well, as I said, once again, it has been a long day. If I may, on behalf of the joint committee, thank you for your assistance today, sir.

Mr. SPORKIN. Thank you.

The CHAIRMAN. Thank you very much.

Mr. SPORKIN. You are welcome.

The CHAIRMAN. Before recessing, I wish to make a statement on behalf of the joint committee.

May we have a short recess?

[Recess.]

The CHAIRMAN. At the request of Congressman Brooks, without objection, an abstract from National Security Directive 159 dated January 18, 1985, subject, Covert Action Policy Approval and Coordination Procedures, will be made part of the record at the conclusion of the witness' testimony.

[The document appears in Appendix B.]

The CHAIRMAN. This is a statement of the joint committee.

Counsel for the Senate and House Committees have sent a letter to Brendan Sullivan, counsel for Lt. Col. Oliver L. North, reflecting the committee's intentions with respect to Lt. Col. North's testimony.

I can report that Lt. Col. North will appear for executive session testimony on July 1st and public testimony beginning on July 7th. In the letter, the committees made it clear that we would make no commitment on limiting Lt. Col. North's public testimony or promise not to recall him as a witness, although we affirm that under our schedule, we do not intend that his testimony will last more than a week or anticipate that he will be recalled.

We also insisted on an executive session interview and testimony of Lt. Col. North on the subject of Presidential knowledge of, or involvement in, the diversion.

Counsel for the committees advised us that such a session would be sufficient. The committees have addressed the concerns expressed by Lt. Col. North's counsel without compromising any of their prerogatives.

Chairman Hamilton?

Chairman HAMILTON. Thank you very much, Mr. Chairman.

I just would add that I am delighted that an agreement has been struck and we are able to send this statement of intentions to the counsel.

I think that the precedents and practices of the House have been accommodated fully, and that the concerns of the witnesses have likewise been accommodated. And we have done that consistent with the prerogatives of the Congress. I would simply point out that in this agreement, we certainly did not make any concessions, I think.

We set the terms. We set the timing of the testimony. We set the length of the testimony, and we have only given Mr. Sullivan, the counsel for Colonel North, a statement of our intentions.

So I find myself very pleased with the statement of intentions in the letter, and I look forward to hearing Colonel North's testimony.

Chairman INOUYE. We will close this session with a summary of depositions of persons involved in the November 1985 shipment of arms to Iran. Because of the sensitive nature of the information involved, we have decided to take this step in presenting a summary instead of calling upon the persons as witnesses.

Mr. Eggleston, the counsel for the House, will present the summary,

## PRESENTATION BY W. NEIL EGGLESTON, DEPUTY CHIEF COUNSEL FOR THE HOUSE SELECT COMMITTEE

Mr. Eggleston. Thank you, Mr. Chairman. I will try to be as brief as possible. As the chairman has stated, the purpose of this recitation in part is because of sensitive reasons and also to expedite the hearings. The committees have decided to present a summary of the testimony of various individuals who were involved in the November 1985 HAWK shipment. This summary is intended to provide some factual bases, some important facts that will put the testimony of Assistant Attorney General Charles Cooper, who is scheduled to be the next witness, into some context.

There has already been some testimony about the events of November of 1985. Mr. McFarlane testified in hearings before these committees that he had been involved in the fall of 1985 in the efforts to obtain the release of the hostages. He testified that he was aware well prior to the actual shipment of HAWKs on November 24, 1985, that Israel was going to ship American made HAWK missiles to Iran in exchange for the release of the hostages.

Mr. McFarlane's testimony, as well as various PROF messages, reflects that Admiral Poindexter, as well, who was then the Deputy National Security Adviser, was aware that Israel was going to ship HAWK missiles to Iran to obtain the release of American hostages.

The committee will also recall that Mr. Secord testified to his participation in the November 1985 HAWK shipments. Mr. Secord identified a letter he received from Colonel North dated November 19, 1985, asking on behalf of the United States for his assistance. Mr. Secord stated that the letter referred to a request by Lt. Col. North for him to assist in a shipment of the HAWK missiles from Israel to Iran. Colonel North told Mr. Secord that the shipment was in connection with the release of the hostages.

At the time that Mr. Secord became involved in the operation, the plan was to have the HAWK missiles shipped from Israel to a foreign—to a European city. There the missiles would be unloaded, perhaps stored temporarily, and then placed on a different airplane and shipped to Iran.

Mr. Secord testified that he was brought into the operation because the private Israelis were having difficulty arranging the logistics through the European city. After agreeing to assist, Mr. Secord worked with the private Israelis and the representatives of the CIA to obtain landing rights for the airplane in the European city.

Mr. Secord testified that the process of obtaining these landing rights required him to work both directly and through these CIA representatives to obtain the overflight and landing clearances. In a deposition given to these committees, Mr. Secord was asked who, to his knowledge, was aware that these airplanes were to contain weapons bound for Iran. Mr. Secord testified that, among others, Thomas Clines, about whom we have heard some testimony; two local arms company employees who were working with him as well knew that these flights were to contain HAWK missiles.

Mr. Secord was asked in his deposition whether the government of the European country was aware of what the flights were going to carry. He responded that he understood that the foreign minister and the prime minister of the country were both informed.

On the issue of the knowledge of the foreign government, Mr. Secord stated in his deposition essentially that you couldn't possibly do this in any other fashion because the process of transshipping weapons through a country required that they be unloaded and it is apparent what they are, and he indicated that it would be impossible to transship these weapons without the host country knowing about it.

The committees have also taken the depositions under oath of both the senior CIA officer and the State Department's Deputy Chief of Mission located in the European city where the transshipment was originally planned to occur. The Deputy Chief of Mission in the European city was a long time Foreign Service officer.

The first involvement of his Embassy in this matter occurred on November 20, 1985. On that date, his deputy was summoned to the foreign minister's office of the European country. The foreign ministry official informed the American Embassy official that he had received a telephone call from an employee of a local arms company. The DCM summarized his telephone conversation in a cable to the State Department and I will quote. It is C-1 of the documents that are going to be distributed.

He stated that:

> the local arms company manager stated that he hoped foreign ministry authorization would be given to two aircraft to transit the European country. They would be carrying arms provided by Israel for Iran.

The foreign ministry official said that the arms company official, apparently acting as a broker for the arms deal, referred to an American general involved in the undertaking and close U.S. relations of the local arms company with the U.S.

As of November 20, of course, the American Embassy in the European country had no knowledge that the U.S. had decided to permit the shipment of weapons to Iran and as a result, the American Embassy informed the foreign ministry of the European country the shipment was not authorized and was contrary to U.S. Government policy.

Mr. Dewey Clarridge, the CIA's Chief of the European Division, who was the supervisor of this CIA officer and stationed in Langley, Virginia, has also given a deposition. He was contacted by Lt. Col. North on the evening of November 21 to assist in obtaining a flight clearance for an aircraft coming into the European city. Mr. Clarridge agreed to help and sent a message that night instructing the senior CIA officer in the European city to report immediately to the station. There ensued a series of cables between the officer and Mr. Clarridge where the officer was instructed to provide a man at that time identified as Mr. Richard Copp, and later known to him as Mr. Secord, with whatever help he required.

Following that instruction, and after talking by telephone with Mr. Copp, the officer attempted to contact officials at the foreign ministry, but was unsuccessful. At approximately midday on November 22, the officer asked the DCM for assistance in contacting foreign government officials.

Mr. Clarridge cabled the officer that the DCM was "to pull out all stops" in order to obtain landing rights for the aircraft. Indeed, the matter reached a sufficient level of significance that during the afternoon of November 22, Mr. McFarlane was pulled out of a meeting he was having with the Pope in order to call the foreign minister of the European country to ask the foreign minister to improve landing rights for the aircraft.

The planning for the flights continued during the afternoon and evening of November 22. The government of the European country asked for a formal diplomatic note which would set forth, among other things, the contents of the cargo. The DCM has testified to the committees in its deposition—in his deposition—that the European government wanted the note to set forth specifically the type and the content of the weapons that would be inside the shipment. The European government also wanted the note explicitly to state that the reason for the shipment was the release of the American hostages.

During the morning of November 23, 1985, the DCM submitted a diplomatic note to the European country. The note did not comply with the foreign ministry's request for specificity on the cargo or the purposes of the flight.

The senior CIA officer has testified in his deposition that on Saturday, November 23d at approximately 11:30 a.m., local time, he met with Mr. Secord in a car in a hotel parking lot. At that time, the officer learned, first, that the true name of Mr. Copp was General Richard Secord, and the officer has testified that he believed that Mr. Secord was formerly associated with the NSC.

Mr. Secord specifically told the officer that the flight would contain HAWK missiles and that they were being shipped to Iran in order to secure the release of American hostages.

The CIA officer has testified in his deposition that he returned to the station after this meeting and sent two cables to the headquarters. The first cable, which will be released as cable C-11, reported generally on the situation as it existed as of that time. That cable, which is often referred to as a situation report, mentioned the meeting with Mr. Secord in the car, but did not set forth the substance of their conversation.

Because of the importance of the meeting, however, the senior officer then sent, according to his testimony, a second cable to headquarters. This second cable specifically set forth the substance of the conversation that the officer had had with Mr. Secord.

Both of these cables were sent by a private channel to Mr. Clarridge, who, as I said, was the chief of the European Division at the CIA. Mr. Clarridge has testified and denied in his deposition knowing that these flights were to contain weapons for Iran. He denied as well ever receiving the second cable. Mr. Clarridge has testified that he believed that the flights were to contain oil-drilling equipment.

The DCM has testified that he worked closely with the senior CIA officer throughout the period November 22 to 25, 1985, and he read many of the cables that the senior CIA officer had sent to Mr. Clarridge. And he also kept in contact with the officer about the information that the officer was sending back to headquarters.

The DCM recalls either reading the cable which specifically informed Mr. Clarridge that the flight was going to contain HAWK missiles or being told at the time by the senior CIA officer that he had sent a cable relaying that information.

In addition, the committees have been advised that the CIA communicator, who was on duty sending these cables from the European city, has a recollection that he sent a cable to headquarters during this time containing information about missiles.

Let me just say a minute—a few things about the cables. Between November 21 and December 11, 1985, Mr. Clarridge sent and received cables relating to this effort to transport missiles from Israel to Iran, to and from three separate CIA stations. The purpose of those cables was to instruct those stations to assist in obtaining landing rights or overflight clearances for these flights from Israel to Iran.

During that time period, Mr. Clarridge sent or received approximately 80 separate cables. All of these cables were sent in what is called the privacy channel. The private channel permitted Mr. Clarridge to communicate with the senior CIA officials at these locations without the usual distribution of cables within the CIA. And the use of the private channel also meant that the headquarters did not maintain any regular file copies of these cables.

Moreover, shortly after the operation was over, the senior CIA officer in the European city destroyed all of the station's copies of those cables. The committees have been informed by the CIA that the only place where these cables were located was in Mr. Clarridge's own personal files at the Agency; no copies were maintained in the official files of the Agency.

Finally, all cables sent to or from a station contain a date, a time, and a number, and using this information, the committees have located nearly all of the cables relating to this initiative which were sent to or from this station in the European city. At least two appear to be missing. One is the cable Mr. Clarridge sent to the senior CIA officer in the European city first informing him of the reason he was to assist Mr. Secord in obtaining landing rights for the airplane. The other missing cable is the one which the CIA officer has testified that he sent to Mr. Clarridge. According to the officer, that cable specifically informed headquarters that the officer had just learned from Mr. Secord that the flight would contain HAWK missiles and that they were being shipped to Iran to secure the release of American hostages.

The committee obtained all the other cables relating to this initiative from the personal files of Dewey Clarridge. This cable was not there, and the CIA has not been able to locate any copies of this cable.

Finishing up, according to the depositions and the cable traffic, planning for the flights continued throughout the day of November 23. Later that day, the European government informed the DCM that it had reached a decision, but it needed a note stating that the operation was for humanitarian reasons and was in order to free the American hostages.

Mr. Clarridge cabled the CIA officer that on Admiral Poindexter's instructions, the European government should be informed in response to its request for an additional note that the American government regretted that the European government was unable to fulfill the U.S. Government request for this humanitarian mission. That day the attempt to transship the missiles through that European country was abandoned. Mr. Clarridge, however, continued to attempt to obtain overflight clearances from another country for, according to his cables, five flights into Iran.

Mr. Clarridge cabled the senior CIA officer in the second country that he should inform that country that the flight would carry oil-drilling equipment. During the evening of Sunday, November 24, the first of what was projected to be five flights containing HAWK missiles touched down in Tehran. Unloading of the missiles was completed on November 25.

On November 25, the pilots for the flight into Tehran informed their superiors, who then informed the head of the CIA Air Branch that they had carried missiles. The cable was sent to Mr. Clarridge on November 25 informing him that the pilot of the aircraft had told ground controllers that the plane was carrying military equipment.

Mr. Clarridge responded by cable that the cargo was indeed spares for the oil industry and he could not understand why the pilot had told the ground controller that he was carrying military equipment.

Later that afternoon, and as we have heard today, two Air Branch personnel briefed general counsel Stanley Sporkin on this operation. Mr. Sporkin has testified here today he was told during that briefing that the November 25 flight to Tehran contained weapons, and by no later than the morning of Tuesday, November 26, Mr. Sporkin informed Casey's assistant, Mr. John McMahon, that in his view a Finding would be required before a CIA proprietary could be used for further flights or before the Agency could continue to help the landing and overflight clearances for these foreign governments, into these foreign countries.

The following day, on November 27, Mr. Clarridge cabled to the two stations that were continuing to provide assistance to the operation, and I'm going to quote from a cable at C-24 in the package that will be released,

> This operation is still on. However, at this point, I do not think we will be ready for our second flight until probably early next week. For your information, whatever was supposed to happen after the first flight did not happen and we are regrouping; we are standing down on flights until early next week.

On December 3, 1985, Mr. Clarridge cabled to the same stations, "We are still regrouping. Key meetings of principles will take place this weekend with earliest possible aircraft deployments sometime mid to late week of 8 December."

The committees will recall from the testimony of Mr. McFarlane that the President met with several of his key advisers on December 7, 1985. Mr. McFarlane then held a meeting, which he characterized as disappointing, with Mr. Ghorbanifar in London on December 8 and 9. The second meeting to discuss the Iranian initiative was held between the President and his advisers on December

10 where Mr. McFarlane reported on his lack of trust of Mr. Ghorbanifar.

The following day, on December 11, Mr. Clarridge cabled the stations that "as of late last night, the negotiating was still going on. We have just received word now that the deal is apparently off."

Mr. Chairman, that concludes the summary of these witnesses and these documents. At this time, I would ask that exhibit C-1 through C-26 be made a part of the record in these proceedings, and as well, that the depositions of the DCM and the senior CIA officer in the European country be made a part of the record of these proceedings.

Chairman INOUYE. Without objection, so ordered.

Mr. EGGLESTON. Thank you, Mr. Chairman.

Chairman INOUYE. The joint committee will stand in recess until 9:00 tomorrow morning.

[Whereupon, at 5:40 p.m., the Select Committees recessed, to reconvene at 9:00 a.m., on Thursday, June 25, 1987.]

# JOINT HEARINGS ON THE IRAN-CONTRA INVESTIGATION

## Testimony of Charles J. Cooper

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THURSDAY, JUNE 25, 1987

SENATE SELECT COMMITTEE ON SECRET MILITARY
ASSISTANCE TO IRAN AND THE NICARAGUAN OPPOSITION
AND
HOUSE SELECT COMMITTEE TO INVESTIGATE
COVERT ARMS TRANSACTIONS WITH IRAN,
*Washington, DC.*

The Select Committees met, pursuant to call, at 9:08 a.m., in room 325, Russell Senate Office Building, Hon. Daniel K. Inouye (chairman of the Senate Select Committee) and Hon. Lee H. Hamilton (chairman of the House Select Committee) presiding.

Chairman INOUYE. The hearing will please come to order.

Before proceeding with the questioning of our witness, I would like to make two announcements.

I am pleased to announce that the committees have reached an agreement with the Government of Israel under which we will obtain significant new information for our investigation.

The Israeli Government will provide us with financial and other detailed information relating to the Iran arms sale. Our staffs have already seen some of the information assembled by the Government of Israel and we are satisfied that it reveals important facts.

In addition, the committees will be able to interview General Rafael Varde, who has led the Israeli Government's fact gathering in this matter.

We will be free to present the information publicly in an appropriate form and to use it to cross examine witnesses before us.

The principal restriction on its use is the same that the United States imposes on use of its own classified material.

We will not publicly disclose information that would affect national security.

The committees wish to express our great appreciation for the unique cooperation being extended by a sovereign nation at this vital stage of our inquiry.

Without such voluntary assistance, relevant facts would not be available to us or to the public, and without these facts, our investigation could not be considered complete.

Further, in connection with Mr. Cooper's testimony this morning, we are releasing this morning the deposition testimony taken by our staff of the Legal Adviser of the State Department, Hon. Abraham D. Sofaer.

Chairman HAMILTON. Mr. Chairman, I concur in your statement with regard to the agreement reached with the Government of Israel and join you in expressing appreciation to the Government of Israel for their cooperation.

Chairman INOUYE. Our first witness this morning will be Mr. Charles Cooper.

Mr. Cooper, will you please rise.

Do you solemnly swear that the testimony you are about to give is the truth, the whole truth, and nothing but the truth?

Mr. COOPER. I do.

Chairman INOUYE. Thank you, sir.

Mr. Naughton—oh, Ms. Naughton, I'm sorry.

## TESTIMONY OF CHARLES J. COOPER

Ms. NAUGHTON. Thank you, Mr. Chairman.

Good morning, Mr. Cooper.

Mr. COOPER. Good morning.

Ms. NAUGHTON. Your title is that of Assistant Attorney General for the Office of Legal Counsel; is that correct?

Mr. COOPER. That is correct.

Ms. NAUGHTON. Can you tell us when and where you graduated from law school?

Mr. COOPER. I graduated from law school from the University of Alabama School of Law in 1977.

Ms. NAUGHTON. And after that, did you clerk on the Fifth Circuit?

Mr. COOPER. I did for Judge Paul Roney.

Ms. NAUGHTON. And after that, you had a clerkship with Justice Rehnquist of the Supreme Court?

Mr. COOPER. That is right.

Ms. NAUGHTON. And when did you join the Department of Justice?

Mr. COOPER. In the summer of 1981.

Ms. NAUGHTON. And where were you assigned?

Mr. COOPER. I joined the Civil Rights Division as Mr. Brad Reynolds' Special Assistant. It wasn't a matter of assignment. It was a matter of accepting his job offer.

Ms. NAUGHTON. And how long were you in the Civil Rights Division?

Mr. COOPER. In the neighborhood of 4 years, thereabouts.

Ms. NAUGHTON. When did you move to the Office of Legal Counsel?

Mr. COOPER. In November of 1985.

Ms. NAUGHTON. Can you tell us what the Office of Legal Counsel does?

Mr. COOPER. Certainly.

The Office of Legal Counsel assists the Attorney General, its primary function is to assist the Attorney General in his role as the chief legal adviser to the President and to the Executive Branch.

In that capacity, we provided legal advice, by and large, to components within the Department of Justice as well as to all of the Executive Branch agencies.

Our normal relationship is with the general counsel of the various agencies, but certainly we provided advice as well to Cabinet members—members of the Cabinet.

Ms. NAUGHTON. So part of your job includes giving the President legal advice?

Mr. COOPER. Yes.

Ms. NAUGHTON. And before you can render such legal advice, is it important to you to have all the facts before you?

Mr. COOPER. It is certainly important to have as thoroughgoing a grasp of the factual background of the legal issue as possible.

Ms. NAUGHTON. Mr. Cooper, did you have any knowledge of United States sales of military equipment to Iran prior to November 1986?

Mr. COOPER. I did not.

Ms. NAUGHTON. Had you heard of any Finding in January of 1986?

Mr. COOPER. Prior to November?

Ms. NAUGHTON. Yes.

Mr. COOPER. I did not.

Ms. NAUGHTON. Were you ever consulted prior to November 1986 on the law regarding arms sales to Iran by the United States?

Mr. COOPER. No.

Ms. NAUGHTON. Now, after the Iran sales became public about the first week in November, did you become involved in researching the legal issues?

Mr. COOPER. Yes, very shortly thereafter.

Ms. NAUGHTON. Can you tell us how this came about?

Mr. COOPER. I would be happy to.

My recollection is that at a management retreat that the Justice Department was having on November 7, the weekend actually of November 7, the Attorney General mentioned to me, really quite in passing, that the controversy that was then beginning to be reported in the papers and which I had taken note of, incidentally, regarding the arms sales, alleged arms sale at that point, to Iran, would be in all likelihood generating some work for my office and he just basically wanted to give me a heads-up on that point.

I think he told me to at some point get in touch with Paul Thompson or to expect a call from Paul Thompson, who was then the General Counsel at the NSC.

Ms. NAUGHTON. Did the Attorney General note any specific legal areas that concerned him about the arms sales?

Mr. COOPER. No. On November 7, as I say, this was really a passing conversation, a heads up, we did not discuss any substantive legal issues at all.

Ms. NAUGHTON. Did the Attorney General tell you on November 7 that he had been involved in the January Finding?

Mr. COOPER. It is entirely possible that he did, but I don't think so. I don't think our conversation was—our conversation was very fleeting, as I say, and it was just not adorned with any details.

Ms. NAUGHTON. Did the Attorney General tell you that he had researched the matter before and had some work product for you or some sort of opinions that he had had done prior to November 7, 1986?

Mr. **Cooper**. Not on November 7, to my recollection, certainly not long thereafter that I became acquainted with the facts that you are suggesting now.

Ms. **Naughton**. All right, did you become acquainted with those facts from the Attorney General or from Mr. Thompson?

Mr. **Cooper**. In all likelihood, both of them, but I remember more crisply at this stage my conversation with Mr. Thompson to that effect.

Ms. **Naughton**. Did the Attorney General discuss the staffing of this research with you; in other words, how many people he wanted to be involved in it?

Mr. **Cooper**. Well, I have a general recollection, yes, that we did discuss staffing, because the question was—the issue he impressed upon me was one of the greatest sensitivity and the greatest importance about which all appropriate security should be taken.

He suggested he wanted me personally to be integrally involved and to limit the staffing as much as possible, and he suggested that I limit my staffing, if I could, to one staff lawyer assisting me in the project.

Ms. **Naughton**. And that would be one lawyer from your office; is that correct?

Mr. **Cooper**. Yes.

Ms. **Naughton**. And did that turn out to be Mr. McGinnis?

Mr. **Cooper**. I did not long at all thereafter give Mr. McGinnis a heads-up of much the same kind.

Ms. **Naughton**. Could you tell us what Mr. McGinnis' legal background is?

Mr. **Cooper**. Yes, Mr. McGinnis is a graduate, as I recall, of the Harvard Law School; he had an extraordinarily distinguished career in law school, a member of the Law Review, as I recall, and certainly stood out academically.

He also is a graduate of Oxford University in England. I frankly cannot recall his undergraduate degree, but it is equally impressive, I am sure.

Mr. McGinnis spent a year clerking for Judge Starr, Kenneth Starr of the Court of Appeals here in the District of Columbia. He then worked, I think, for in the neighborhood of 2 years with Sullivan & Cromwell, a law firm in New York City before joining the Office of Legal Counsel.

He actually has more seniority in the office than I do. He was a staff lawyer in the office before I arrived.

Ms. **Naughton**. Judge Kenneth Starr is a former——

Chairman **Inouye**. Ms. Naughton, may I interrupt? Mr. Cooper, you may find it a bit more comfortable if you would raise the mike and bring it forward.

Mr. **Cooper**. Thank you, Mr. Chairman.

Chairman **Inouye**. I am sorry, please proceed, Ms. Naughton.

Ms. **Naughton**. Thank you.

Judge Kenneth Starr is a former counselor to the Attorney General, is that correct?

Mr. **Cooper**. He is, to Attorney General William French Smith.

Ms. **Naughton**. Yes.

Mr. Cooper. Right.

Ms. Naughton. Thank you. You said that the Attorney General suggested that you call Mr. Paul Thompson to get some of the legal and factual background of the arms sales.

Mr. Cooper. Either that I call him or that I expect a call, the upshot of it is that he and I will be in touch on this question, yes.

Ms. Naughton. Were you?

Mr. Cooper. Yes. Yes, we were.

Ms. Naughton. And did you meet with Mr. Thompson?

Mr. Cooper. I did.

Ms. Naughton. Do you recall when that was?

Mr. Cooper. Well, my best recollection for the first meeting that I had with Paul Thompson is November 12th.

Ms. Naughton. And by the way, Mr. Cooper, you have prepared after the fact a handwritten chronology of your activities, from November 7 through about the 26; is that correct?

Mr. Cooper. I did, very soon after the fact.

Ms. Naughton. And for the record, that is CJC exhibit no. 1. Please feel free to refer to it in any of the questions. Was this meeting with Mr. Thompson at the Department of Justice or at the Old Executive Office Building?

Mr. Cooper. It was actually in the west wing of the White House.

Ms. Naughton. Did you meet with Admiral Poindexter?

Mr. Cooper. I did for a very brief period of time before I had my conversation with Commander Thompson. I met and had some chitchat with Admiral Poindexter. I had never met him before, and so I sat down with him for a few moments.

Ms. Naughton. Did Admiral Poindexter know what your purpose was in being there?

Mr. Cooper. Oh, yes.

Ms. Naughton. How do you know that?

Mr. Cooper. Well, he did not state that he knew why I was there, but I have to assume that he—I was in his office chatting with him, it is inconceivable that he didn't know I was there to discern and learn facts relating to the Iran arms sale.

I mean, it was just obvious that he knew why I was there.

Ms. Naughton. What did Admiral Poindexter say about the facts relating to the Iran arms sale?

Mr. Cooper. My best recollection is that we did not—Admiral Poindexter and I—get into facts. My recollection is that was something I was going to take up with the General Counsel, who was going to relate to me the facts as they had thus far been able to gather them.

Keep in mind that prior to this meeting, I had had some telephone conversations, at least one and probably more, with Mr. Thompson in which my purpose, that is, learning the facts that surrounded this initiative, the Iranian Initiative, was well known to him. And he was making clear to me that there was an effort, very intense effort within the National Security Council by the people most knowledgeable to gather those facts, and to share them with me as soon as possible.

Ms. Naughton. Did you, in fact, Mr. Cooper, nag him a little bit in order to set up this meeting, so you could get some facts?

Mr. COOPER. I certainly think it is fair to say that I, by this time, had nagged Commander Thompson to get the facts, not so much to set up a meeting. I just wanted the facts, and I was given to understand the chronology of the facts was being created by the people most knowledgeable, and I was looking for a chronology much more importantly than a meeting.

Ms. NAUGHTON. Were you told who would write the chronology?

Mr. COOPER. I was ultimately. I cannot say that I knew at that point who was writing the chronology other than that the people who were in the best position to develop a chronology were developing it.

Ms. NAUGHTON. Now, when you met with Admiral Poindexter and Paul Thompson, was it your understanding that they were going to provide you all of the facts they had at the time, so that you could render a legal opinion?

Mr. COOPER. Of course.

Ms. NAUGHTON. And after your brief meeting with Admiral Poindexter, did you and Mr. Thompson meet alone?

Mr. COOPER. We did.

Ms. NAUGHTON. And did he produce for you a Finding?

Mr. COOPER. Yes, he did.

Ms. NAUGHTON. Could you tell us where he—from where he produced that?

Mr. COOPER. From some location that I took to be a secret place, either on his desk or close by to his desk. It was in a sealed envelope, and I was given to understand it was the only existing copy of this Finding, and in a way that impressed me, I guess, and perhaps was designed to impress me, with the very extraordinary sensitivity of this document, of this matter.

Ms. NAUGHTON. Did it appear to be the original?

Mr. COOPER. Yes, it did, and it was offered to me as the original and only document.

Ms. NAUGHTON. Was this Finding the January 17, 1986, Finding?

Mr. COOPER. That is what I now know it was, and it was dated January 17, yes.

Ms. NAUGHTON. Did Mr. Thompson show you any other Findings?

Mr. COOPER. No, he didn't.

Ms. NAUGHTON. Did Admiral Poindexter show you any other things?

Mr. COOPER. No.

Ms. NAUGHTON. Did Mr. Thompson mention that there were other Findings?

Mr. COOPER. It is possible that he did, but I have no recollection that I learned that there were other Findings at that point. It didn't make an impression on my memory if he did.

Ms. NAUGHTON. Did Admiral Poindexter mention if there were other Findings?

Mr. COOPER. I would have to make the same answer, although it is with much greater doubt that I would say that he showed me or discussed any Finding with me. Perhaps he did, though.

Ms. NAUGHTON. Did Mr. Thompson tell you who had drafted the November 17, 1986 Finding?

Mr. COOPER. No, I don't think that he did. I don't think that he did. I don't think we discussed the question of who—I mean who actually sat down and was the principal draftsman. I did certainly understand from Mr. Thompson that the Finding was the product of a deliberative policymaking effort involving the President and the appropriate national security cabinet members including the Attorney General, who examined legal issues that surfaced during that policy-making period.

Ms. NAUGHTON. Did he tell you that Michael Ledeen also had information?

Mr. COOPER. Yes, he did. I do well recall his mentioning Mr. Ledeen's name. It was in the context, I think, of him suggesting that somebody is going to have to talk to Michael Ledeen about all of this, because he is a very significant source of information about the whole Iran initiative.

It was my distinct understanding and impression that Paul Thompson was not a source of personal knowledge about the details or facts regarding the implementation of the Iran initiative, and that he was suggesting that as the people who were knowledgeable were creating the chronology and gathering the facts, that Ledeen is going to have to be consulted.

Ms. NAUGHTON. Now, Mr. Cooper, around this period of time, did you begin to research the statutes involved and the legal issues that might have been presented by the arms sales?

Mr. COOPER. Yes.

During the period from immediately prior to the 12th and after the 7th, but I think the 7th was a Friday, and I am quite certain I did not sit down with Mr. McGinnis until Monday, whenever Monday was. We kind of groped around, frankly, in the code trying to identify the statutes that would pertain to such an event as we were given to understand by the media reports had taken place.

Ms. NAUGHTON. Now, did you basically conclude that there are two legal ways of transferring U.S. arms to another country; that is, the Arms Export Control Act and the National Security Act?

Mr. COOPER. Well, we—our research led us to the conclusion that there are at least two and that those are two of them.

Ms. NAUGHTON. Could you tell us in terms of the Arms Export Control Act what your understanding is of the requirements of such country-to-country, government-to-government transfers?

Mr. COOPER. Well, it is my recollection, and I have written some lengthy legal analyses on these questions, but my recollection at the moment is that the Arms Export Control Act carries with it a number of restraints upon such arms transfers to other countries, and among those restraints are things such as the foreign country must be—it must satisfy some certain policy objectives; in other words, that the arms be basically for defensive purposes, that kind of thing, as well as some other criteria.

I think the thing that we focused on was retransfers from a country that had purchased arms from the United States to a third country, and the restraints that might encumber such a transaction, because that is what we were given to believe had taken place and among the kind of restraints that encumber a transfer like that are things like getting Presidential consent.

The first country must get Presidential consent to a transfer to a second country, and that Presidential consent can be forthcoming only if there is a commitment from the second transferee country that it will abide by all the kinds of restraints that were placed upon the first country; that it report—that the President report transactions of a certain magnitude. I think $14 million is the statutory figure—these kinds of restraints.

It is clear that arms exports under this act have a number of restraints connected with them.

Ms. NAUGHTON. So in reference to the Arms Export Control Act and these transactions, that is, the arms sales from the United States to Israel and then to Iran, in particular a third country transfer then to Iran, would you agree that the third country, that is Iran, must be approved by the United States as a recipient for these arms by an appropriate authority and also that Iran would have to certify to the United States that these arms would be used for purposes consistent with the Arms Export Control Act?

Mr. COOPER. For any arms transaction to which the Arms Export Control Act applies, I understand those to be the requirements.

Ms. NAUGHTON. Was it your understanding that there was a ban on direct sales from the United States to Iran at the time?

Mr. COOPER. Yes. I certainly was acquainted with an Executive order that blocked; that is, froze Iranian assets, as well as arms in this country that Iran had already purchased and paid for, as I later understood it. And not long thereafter I was acquainted with a 1986 amendment that suggested that there should be no arms transactions, amendment to the Arms Export Control Act to the effect that there should be no arms transactions to any country that had been designated as a terrorist country by the Secretary of State, and I also learned that the Secretary of State had designated Iran as such.

Ms. NAUGHTON. So in order for there to be a lawful exchange of weapons or a lawful receipt of weapons by Iran of U.S. military weapons, there would have to be some sort of an affirmative Presidential public exception to the Arms Export Control Act or at least a public assertion that now the President had approved a policy to send arms to Iran. Would that be a correct statement?

Mr. COOPER. I am hesitant about the "public" but I think that is probably right. But I don't otherwise quarrel with the statement as long as it is kept uppermost in mind that one must conclude that the transaction was an Arms Export Control Act transaction, and as we discussed earlier, there is, in my opinion, at least one other means by which arms can be transferred by the United States.

Ms. NAUGHTON. And that would be under the National Security Act?

Mr. COOPER. Yes.

Ms. NAUGHTON. Can you tell us what the National Security Act would require with reference to an arms transaction between the United States and Iran?

Mr. COOPER. Well, the National Security Act governs intelligence activities, including covert intelligence activities, and its principal requirement, at least the requirement that we focused on where the congressional notification requirements for a significant anticipated intelligence activity, I think is the phraseology used in the act. Beyond that the restraints that I have cited about the Arms Export Control Act, I do not understand to apply under the National Security Act.

Ms. **Naughton**. Nevertheless, the National Security Act would require a Finding by the President for such arms transfers; is that correct?

Mr. **Cooper**. It would require a Finding for such arms transfers—actually it is not the National Security Act that requires the Finding. It is the Hughes-Ryan statute—amendment and the Hughes-Ryan amendment so-called requires a Finding any time the CIA is involved in any intelligence activity abroad other than intelligence gathering. And, yes, if the CIA was involved in a covert arms transaction, a Finding would be required.

Ms. **Naughton**. And it also requires congressional notice; is that correct?

Mr. **Cooper**. Yes, the Hughes-Ryan amendment refers explicitly to Section 501 of the National Security Act, which is the provision that outlines congressional notice requirements.

Ms. **Naughton**. Would you agree that the Finding should be, of course, made prior to any of the covert activities being done?

Mr. **Cooper**. That is my opinion.

Ms. **Naughton**. Did you at some time between November 7 and 13 provide the Attorney General with a notebook containing the various statutes that we have discussed?

Mr. **Cooper**. Yes, I did. I cannot tell you with any precision when that was, but it was in the early going of this matter.

Ms. **Naughton**. Did you ask the Attorney General during this period of time whether indeed he had participated in the January 1986 Finding?

Mr. **Cooper**. Yes. Oh, yes—well, I can't tell you I asked him, but that—I mean that became known to me very early on.

Ms. **Naughton**. And did he tell you whether or not he had received any legal opinions or done any legal research during the period which in January the Finding was being debated?

Mr. **Cooper**. Yes.

Ms. **Naughton**. What did he tell you about what research he had done?

Mr. **Cooper**. He advised me that Mr. Sporkin, Stanley Sporkin, the General Counsel of the CIA, had done an examination of the legal issues that had surfaced back in January, 7th, I think it was, when the Attorney General was made aware of those legal issues, and that the Attorney General had reviewed that analysis, had examined in fact the National Security Act, the congressional reporting requirements, and had concluded that Mr. Sporkin's analysis was sound and apparently had indicated that it was his opinion that the project could go forward on the basis that was then established.

Ms. **Naughton**. Other than relying on Mr. Sporkin's opinion, and reading the National Security Act, did the Attorney General inform you whether or not he tasked anyone at the Department of Justice to do research in January of 1986?

Mr. **Cooper**. On the contrary; he made clear to me that he had not staffed this matter out at all, but had performed this task personally. And he did so amidst clear references to the extraordinary sensitivity that he understood, and apparently all the individuals who were involved understood this matter to require.

Ms. **Naughton**. Did you provide to him a legal memorandum outlining some of the statutes on or about November 13, 1986?

Mr. **Cooper**. Yes, I did. The memorandum actually was provided to him no earlier than November 14th, but we completed it on November 13th.

Ms. **Naughton**. Would this appear as exhibit no. 2, CJC–2, in the exhibit book?

Mr. **Cooper**. Yes, it is.

Ms. **Naughton**. On or about November 17th, did you receive a draft chronology from the White House?

Mr. **Cooper**. Yes, I did.

Ms. **Naughton**. And did you, Mr. Cooper, provide to the Select Committees, all of the chronology you had received from the NSC during this relevant period of time?

Mr. **Cooper**. We have.

Ms. **Naughton**. Thank you.

I direct your attention to exhibit 3, in your exhibit book.

The first page of which I understand is irrelevant to the subject at hand, and the chronology actually starts on the second page, that is the page dated, November 17, 1986?

Mr. **Cooper**. Right. That is correct.

This first page, I now recognize, but it is, indeed, irrelevant to the exhibit.

Ms. **Naughton**. Directing your attention to page 4 of that exhibit, and this is exhibit 3, first of all, the handwriting in the lefthand margin, is that yours?

Mr. **Cooper**. No, it is not.

Ms. **Naughton**. Do you know whose it is?

Mr. **Cooper**. I don't know whose handwriting that is. I suspect—I have to conclude that this marginalia was authored by somebody at the NSC, because I believe that, I am quite confident that this was on the document when we received it.

I would also hasten to add that I cannot connect with any confidence at all that we received this particular version of this chronology on the 17th. But we did receive a version. We have two versions in our files.

One is cleaner and does not bear those marginalia and these interlineations that are revealed on this document. So I just can't tell you when we got one and when we got the other.

Ms. **Naughton**. Of this version, Mr. Cooper, if I could direct your attention to the second paragraph and read from it.

> In September of 1985, the Israelis advised that they were close to achieving a breakthrough in their contact with Iran and would proceed unless we objected.
>
> It is important to note that the United States had long been aware of Israeli efforts to maintain discreet contact with Iran to provide Iran with assistance in the war with Iraq. Despite long-term United States efforts to convince the Israelis to desist Israel continued to provide limited military and industrial technology to Iran.
>
> The U.S. Government judged that the Israelis would persist in these secret deliveries, despite our objections, because they believed it to be in their strategic interests.
>
> On August 22, 1985, the United States, through the U.S. citizen intermediary, acquiesced in a Israel delivery of military supplies (508 TOWs) to Tehran. We were subsequently informed that the delivery had taken place at the end of August, though we were not aware of the shipment at the time it was made.

> U.S. acquiescence in this Israeli operation was based on a decision at the highest level to exploit existing Israeli channels with Tehran in an effort to establish an American strategic dialogue with the Iran Government.

Mr. Cooper, was this your first information that there had been a shipment to Iran prior to the November 1986 Finding?

Mr. COOPER. The November—yes, yes, The chronology that we received on or about November 17th, was the first time that I had any knowledge that the arms transfers from any country related in any way to this matter had taken place prior to the issuance of the Finding, at least the January 17th Finding.

Ms. NAUGHTON. So up until you got the chronology, Admiral Poindexter did not tell you about the 1985 shipments, and Mr. Thompson did not tell you about the 1985 shipments; is that correct?

Mr. COOPER. That is my distinct recollection.

Ms. NAUGHTON. Directing your attention to page 5 of the same exhibit, the first full paragraph reads,

> In late November 1985, the Israelis, responding to urgent entreaties from the Iranians, provided 18 basic HAWK missiles to Iran in order to improve the static defenses around Tehran. The Israeli delivery of HAWK missiles raised United States concerns that we could well be creating misunderstandings in Tehran and thereby jeopardizing our objective of arranging a direct meeting with high level Iranian officials. These missiles were subsequently returned to Israel in February 1986, with U.S. assistance.

Mr. Cooper, is this the first you ever heard of a November 1985 HAWK shipment?

Mr. COOPER. I do believe it was and I believe I heard through my assistant, Mr. McGinnis, who was, of course, reading these chronologies as they came in and much more closely than I was.

Yes, I can recall very well that he shared this information with me and recognized its significance.

Ms. NAUGHTON. Once you recognized that there were 1985 shipments, can you tell us what the legal significance and the legal problems that those pre-Finding shipments brought to your mind?

Mr. COOPER. Well, we identified two potential legal issues that were raised by those shipments that I can recall now.

First of all, it appeared from the information that we had that these shipments were in all likelihood encumbered by the Arms Export Control Act. We had assumed, and we tried not long thereafter to find out for sure, that TOW missiles and HAWK missiles, and I assure you neither of us had any idea what these armaments were, but we assumed that they were the kind of armaments that were the kind that Israel could only have obtained through the Arms Export Control Act process and, therefore, encumbered by the very restraints upon retransfer to another country. That was not our major concern, I have to confess, however, because if Israel violated the statute, that, I guess, was Israel's problem. That was not something that immediately concerned us.

The major concern that we had, frankly, was that the Arms Export Control Act places a reporting requirement upon the administration or the Executive Branch to report violations of the Arms Export Control Act, and to do so, I think the term is, immediately.

So we became concerned that these apparent violations may not have been reported immediately, and whether or not there were—we began to examine whether or not there were—what kind of reasons there might be underlying this and whether those reasons would be—would excuse the failure in some way or another if, indeed, there was a failure.

Ms. NAUGHTON. In regard to the National Security Act and Hughes-Ryan, in other words, if these were sales that were covert activities of the CIA or CIA involved, what was your concern about the 1985 shipments?

Mr. COOPER. Well, I don't remember whether this particular chronology references potential CIA activity in the November HAWKs transaction, but if not in this one, in the very next one we got there was reference to CIA activity in that, and November—if that took place in November, the question, obviously, arises whether or not that activity was in violation of the Hughes-Ryan amendment, which requires a Finding, and requires a Finding, in my opinion, prior to the time that the activity is undertaken.

Ms. NAUGHTON. When you learned of these 1985 shipments, did you tell the Attorney General about them?

Mr. COOPER. Yes, I certainly did. I can't tell you what amount of time elapsed, but I did not tarry. I told him at my next opportunity to do so.

Ms. NAUGHTON. Do you recall what his response was?

Mr. COOPER. His response was like mine, one of surprise and concern. He was entirely unaware of this activity, it was my clear understanding and impression.

Ms. NAUGHTON. Once you learned about the 1985 shipments, did you call Oliver North, John Poindexter, Paul Thompson, Robert McFarlane to find out more about them?

Mr. COOPER. Well, I am certain I didn't call Mr. McFarlane. I am certain I didn't call Mr. Poindexter. I probably called Mr. Thompson, however, and it is my general recollection that I did.

Ms. NAUGHTON. Did he offer you any more information on the 1985 shipments?

Mr. COOPER. I am sure that he didn't, because he didn't—he was not—at least I did not know then, and I don't know now, that he was a repository of any personal knowledge relating to these matters. It was my understanding that he wasn't. But throughout this he impressed upon me, and I fully understood, that the people who were attempting on an urgent basis to gather all of the information were doing so and that the chronologies and their understanding of the facts, particularly these facts that relate to Iran, was sketchy, and they are doing the best they can.

So it was not with a high level of confidence that I accepted this portrayal or this understanding of those events, but I certainly came to accept the proposition that events of this kind, arms transactions, had taken place prior to the Finding.

Ms. NAUGHTON. Do you know whether or not, once you told the Attorney General about the 1985 shipments, whether or not he called Colonel North, Admiral Poindexter, or Mr. McFarlane to inquire about them?

Mr. COOPER. I don't know the answer to that. I don't recall if I ever did know, but I certainly don't recall now.

Ms. NAUGHTON. Is it your understanding from the paragraph which I read of that exhibit that the position of the National Security Council in drafting this chronology was that the HAWK shipments in November was done without United States permission and that the U.S. disapproved of it and eventually arranged or prompted the return of those missiles—would that be a fair interpretation of that paragraph?

Mr. COOPER. Yes, yes, it would, and that understanding of the event was ratified and reemphasized not long thereafter in the next chronology.

Ms. NAUGHTON. Turning now to November 18th, did you attend a meeting at the White House?

Mr. COOPER. I attended a meeting, and it would have been around that time, and I am advised by the staff that they have placed the date on November 18th, and I certainly don't resist it, that sounds about right to me.

Ms. NAUGHTON. Could you tell me where the meeting took place?

Mr. COOPER. Yes, it took place in Mr. Wallison's office, Peter Wallison, who was counsel to the President.

Ms. NAUGHTON. Who was at the meeting?

Mr. COOPER. Certainly Mr. Wallison and certainly me. From there, my certainty flags somewhat, but I do believe confidently that Abe Sofaer was there from the State Department.

Ms. NAUGHTON. Could you tell us what his position is, please.

Mr. COOPER. He is legal adviser in the State Department, which is analogous to the general counsel position.

I also do confidently recall that Mr. Doherty was there, Mr. Dave Doherty. So also I believe was Larry Garrett of the Department of Defense, he is the general counsel there. Dave Doherty, by the way, is general counsel of the CIA. And Paul Thompson I confidently believe was there.

Ms. NAUGHTON. What was the purpose of this meeting?

Mr. COOPER. Well, I think it was a general purpose meeting for the general counsels of the most relevant agencies to visit on this matter of the Iran arms transactions. It also was an opportunity for those of us who were not acquainted with the process of Findings, of developing so-called Findings in the intelligence area, and communicating them to the Congress could be described by Mr. Doherty. It also became a session in which the general counsels complained and criticized for the lack of information that they were getting on the whole matter.

Ms. NAUGHTON. Whom did they criticize for the lack of information they were getting?

Mr. COOPER. I think the NSC in the person of Mr. Thompson, though the criticisms were not personal, as I understood them.

Ms. NAUGHTON. Would you say it is fair to characterize that Judge Sofaer was a bit irritated that he was not getting more information from the National Security Council?

Mr. COOPER. That is a fair characterization.

Ms. NAUGHTON. What did Paul Thompson tell the people at this meeting about the 1985 shipments?

Mr. COOPER. My general and impressionistic recollection is that he basically told them the same thing he had been telling me, which was they are doing the best they can, and the people who are in the best position to develop those facts are doing it feverishly, and they will just do the best they can. That is a confused and complex chain of events.

Ms. **Naughton**. Did Mr. Doherty, or anyone else in the room at that meeting, mention CIA involvement in the 1985 HAWK shipments?

Mr. **Cooper**. I am drawing a blank from my memory. If I could consult the note I took at that meeting, which I know is one of your exhibits——

Ms. **Naughton**. That is exhibit CJC-4.

Mr. **Cooper**. I do not see any reference here, and I don't recall any.

Ms. **Naughton**. Turning your attention to the next date, November 19th, the President had a press conference in which he described the Iran arms transaction. Did you watch that press conference on television?

Mr. **Cooper**. Yes, I did.

Ms. **Naughton**. Did anything the President said in the press conference concern you?

Mr. **Cooper**. Yes, it did.

Ms. **Naughton**. Could you tell us what that was?

Mr. **Cooper**. At some point in the press conference, the President made a statement to the effect that there had been no third countries, that we had not been involved in any way with a third country in this matter, and I think he was responding to a question that had identified the third country, but I don't recall that.

In any event, all of the information that I had received to that point, including the information post-Finding, post-January 17, about which there didn't seem to be a whole lot of disagreement and about which I was reasonably comfortable in terms of legal positions, I was entirely comfortable—so I understood confidently that to be an error.

Ms. **Naughton**. In fact, the White House chronology itself described Israeli actions in 1985 before you viewed the press conference, is that correct?

Mr. **Cooper**. Yes, though it was Israeli action after 1985 that was apparently without—it was not clouded in any uncertainty as was the pre-Finding activity, so I just didn't think that was a question on which we entertained any doubts that Israel was indeed involved in this whole initiative and the President's statement was not limited in any way to the pre-Finding period.

Ms. **Naughton**. What did you do when you became concerned about the statement about no third country was involved?

Mr. **Cooper**. I immediately called Commander Thompson at the White House. I was in my office watching this and I got through to him immediately, and he was in his office and——

Ms. **Naughton**. What did he tell you?

Mr. **Cooper**. He knew why I was calling, and I didn't need really to articulate my concern, and he told me that a correction would be forthcoming instanter.

Ms. **Naughton**. To your knowledge, was a correction forthcoming?

Mr. **Cooper**. Oh, yes, yes, oh, I searched the papers the next morning and, indeed, it had been corrected.

Ms. NAUGHTON. Do you know what the Attorney General's reaction was to this confusion about third country, the third country remark?

Mr. COOPER. It was identical to mine, I understand. He, the following day, told me that he had placed a call as well to the White House contemporaneously with mine and had made known his view that if the President is in error, he should—the correction should be made immediately.

Ms. NAUGHTON. Now, the next day on November 20, did the Attorney General invite you to a meeting at the White House?

Mr. COOPER. Yes. I can't state with confidence that he invited me on the 20th. It may have been on the 19th, but I think I became aware of that meeting on the 20th and we did attend it on the 20th.

Ms. NAUGHTON. What was your understanding the purpose of that meeting would be?

Mr. COOPER. To meet with Admiral Poindexter and Mr. Casey as well as, I take it, others who were going to meet and try to go over their testimony to the Intelligence Committees the following day. They were scheduled to testify and to share as much as they then could and knew about the Iranian initiative with the relevant committees of the Congress and we were to go and participate in that meeting.

Ms. NAUGHTON. And did you know whether or not the Attorney General indeed changed his plans in order to attend that meeting?

Mr. COOPER. It is my understanding that he did. He had planned to leave town earlier in the day and not attend the meeting, I do understand, and I think he did change his plans, I think, primarily in the aftermath of the news conference.

Ms. NAUGHTON. So he considered the session a serious enough thing to warrant his attention that day?

Mr. COOPER. I think his concerns—well, yes, he did, obviously.

Ms. NAUGHTON. Do you recall what time of the day the meeting occurred?

Mr. COOPER. Well, my chronology says 1:30 to 3:00 all of my chronology times are the best I could reconstruct, but I certainly don't have a refreshed recollection on it.

1:30 to 3:00, I guess.

Ms. NAUGHTON. Who was at this meeting to draft Mr. Casey's—or to go over a draft of Mr. Casey's testimony?

Mr. COOPER. Again, my chronology identifies, and this is consistent with my present memory, Casey, Director Casey, Colonel North; there was somebody with Director Casey. I recorded in my chronology Mr. Gates, but I cannot see him in my mind's eye, but there was somebody there and I think it was Mr. Gates, the Attorney General, myself and Mr. Thompson.

I think that is all. I can't be entirely certain, however.

Ms. NAUGHTON. Did you have an advance copy of the draft testimony?

Mr. COOPER. I don't believe that I did. I believe I received a copy of Director Casey's prepared or proposed testimony at that meeting.

Ms. NAUGHTON. Do you know who drafted it?

Mr. COOPER. His prepared testimony?

Ms. NAUGHTON. Yes.

Mr. COOPER. I—well, I actually guess I never did identify precisely who prepared the document, but I assume it was people at CIA.

Ms. NAUGHTON. And——

Mr. COOPER. With NSC assistance, I should think, but frankly, I don't know.

Ms. NAUGHTON. Now, calling your attention to exhibit no. 5, and this would be the second page of Mr. Casey's draft testimony, and I would like to read from the second paragraph and on regarding what Mr. Casey anticipated testifying to in Congress about the 1985 HAWK shipments.

"In late November 1985, the NSC asked our officers to recommend a charter airline, the reliability of which we could vouch for, to carry some cargo from Tel Aviv into Iran. Our—" and it is blanked out—"was told there was some urgency about this in connection with a meeting in Geneva between an Iranian official, the expatriate intermediary, and a private U.S. citizens. Our—"and the source is blanked out—"recommended a proprietary of theirs called—" blank.

"This little airline regularly took on commercial ventures, did not know what was being moved.

"When the plane got to Tel Aviv, the pilots were told the cargo was spare parts for the oil fields and was to go into Tabriz. Our—"blank"—decided that in order to protect the plane, our—"blank"—should be asked to get flight clearances into Iran.

On November 25, 1985, the plane dropped the cargo in Tehran without knowing what it was. The Israelis were unwitting that the plane was a CIA proprietary and the airline charged the normal commercial rate which was approximately $127,000.

Our Associate Deputy Director of Operations authorized the flight because of the alleged urgency of the requirement, but—"then this is crossed out"—in consultation with the Deputy Director decided that we would not provide any future support of flights into Iran in the absence of a Finding.

We didn't learn until sometime in January 1986 that the shipment involved 18 air defense missiles and that it was later rejected by the Iranians on the basis that it was not what the Iranians had ordered from the Israelis.

In this affair, our air proprietary had been made available to accommodate a delivery requirement in which the NSC was interested and the shipment was billed and paid for at the normal rates charged by our air proprietary."

Mr. COOPER. Before you ask a question on that, Ms. Naughton——

Ms. NAUGHTON. Yes.

Mr. COOPER. I would point out, I think, a place in your reading where I understand the document to be slightly different.

The sentence is on page 2, and it begins, "This little airline regularly took on commercial ventures," and you read it "did not know." I think the sentence is actually two sentences and there is a period after "ventures" and the next word is "we did not know."

Ms. NAUGHTON. Thank you, Mr. Cooper. That is probably correct.

Mr. COOPER. I think that is a reasonably significant distinction.

Ms. NAUGHTON. For the record, those words are crossed out in handwriting—correct—a capital W inserted.

Mr. COOPER. Yes.

Ms. NAUGHTON. So the sentence was changed to read, "This little airline regularly took on commercial ventures. We did not know what was being moved."

Mr. COOPER. Yes.

Ms. NAUGHTON. "We" referring presumably to the CIA?

Mr. COOPER. Presumably. That is how I have read and understood the sentence.

Ms. NAUGHTON. And the draft also said that the CIA was not aware that it was HAWKs until January of 1986; is that correct?

Mr. COOPER. That is right.

Ms. NAUGHTON. All right.

And the draft also said that the HAWK missiles were rejected by the Iranians and returned by them. Is that correct?

Mr. COOPER. Could you invite my attention again to that?

Ms. NAUGHTON. Yes, on page 3, the first full paragraph that the missiles—and that it was later rejected by the Iranians on the basis that it was not what the Iranians had ordered from the Israelis.

Mr. COOPER. You are correct.

Ms. NAUGHTON. That differs from the version in the chronology received from the White House, which said that the United States did not affirm the transfer of arms to Israel. Is that correct?

Mr. COOPER. That is correct.

Ms. NAUGHTON. Now, this version says it is the Iranians who didn't want the missiles; is that correct?

Mr. COOPER. That is what it says.

Ms. NAUGHTON. Now, was there an insertion to this language proposed at the meeting to go over the draft testimony?

Mr. COOPER. Yes, there was, and in fact, it was the insertion that was the focus of everybody's attention with respect to this November episode. It was not the paragraph that we have just gone over.

All of the attention that related to the November episode, and there was a considerable amount of it during the meeting, was focused on the insertion. That was the dominant document actually with respect to that episode.

Ms. NAUGHTON. Fine. Let's turn to it then, and that is CJC exhibit no. 6, entitled "Subject: CIA Airline Involvement." Could you tell us first, before we go into it, who presented the arguments proposing this insertion?

Mr. COOPER. It really wasn't the—the situation was that the insertion was the discussion of the issue that we were going to examine, that was under examination; it wasn't let us replace the other discussion with this. It was as though the other discussion didn't even exist in the document.

I do not recall having had any conversation focused at all about whatever was said in the document we just examined. This was the only one, and I don't recall who proposed it. The documents were handed out actually, as I recall, contemporaneously with one another.

Ms. NAUGHTON. So that the insertion was handed out at the same time the draft was, as you recall?

Mr. COOPER. Actually, I picked up the insertion and a draft on the couch, so they had already been handed out when I got there.

Ms. NAUGHTON. And in terms of who explained the facts relating to the insertion, who in the room was basically the chief spokesperson for the insert?

Mr. COOPER. Well, Lt. Col. North was truly about the only person who had much discussion at all about this episode, the only one contributing any factual knowledge.

Ms. **Naughton**. Thank you.

Mr. **Cooper**. That I recall.

Ms. **Naughton**. Now, going down to the 6th paragraph on the insertion, which is CJC exhibit 6, I would read that into the record. It states, "To the best of our knowledge," and then there are some handwritten delineations, "neither the Israelis nor the Iranians knew that they"—and then it says "was dealing with a CIA proprietary, nor did airline personnel know what they were carrying. No one"—first of all, the original language read,

> We in CIA did not find out that our airline had hauled HAWK missiles into Iran until mid-January, when we were told by the Iranians.

The first part of that sentence is crossed out, in handwriting and instead is written "no one in the USG"—assuming U.S. Government—

> found out that our airline had hauled HAWK missiles into Iran until mid-January, when we were told by the Iranians.

Now, Mr. Cooper, who proposed the change in that language from no one in the CIA knew it was HAWKs to no one in the U.S. Government knew it was HAWKs until January?

Mr. **Cooper**. Lt. Col. North, and it is my distinct recollection that he was the author of all of the interlineations that you see on this page.

Ms. **Naughton**. And when Colonel North made the assertion that no one in the U.S. Government knew that they were HAWK missiles until January of 1986 in this proposed testimony to Congress, did anyone in the room dispute that fact?

Mr. **Cooper**. No.

Ms. **Naughton**. Did Mr. Poindexter dispute it?

Mr. **Cooper**. No.

Ms. **Naughton**. Did Mr. Casey dispute that?

Mr. **Cooper**. No.

Ms. **Naughton**. Did they remain silent?

Mr. **Cooper**. They reacted the same way I did, at least that was my impression, that—OK, if that is the way it was, then fine. I mean, they did not appear to me to have any personal knowledge of this matter.

Ms. **Naughton**. And they accepted that change; is that correct?

Mr. **Cooper**. Yes.

Ms. **Naughton**. What was your impression of the deference that Mr. Poindexter and Mr. Casey gave to Oliver North in your observation of this meeting?

Mr. **Cooper**. Well, I did not—no impression was retained on my memory, in particular of any deference that they gave him. They gave him the deference that one gives to a person who has superior knowledge of the facts or has the only basis for having any knowledge of the facts, whether that is because they have been reported to him or because he personally knows.

But he stated this with authority, that no one in the USG found out. In fact, I can recall crisply that he wanted to eliminate the inference that someone in the U.S. Government knew about this, even if the CIA didn't.

Ms. **Naughton**. So, Mr. North's position was that if the document read no one in the CIA knew of it, that would infer that someone in the government did?

Mr. **Cooper**. Yes.

Ms. **Naughton**. And he wanted to erase that inference; is that correct?

Mr. **Cooper**. Yes. And I thought if that was correct, that we certainly ought to do that.

Ms. **Naughton**. Now, in your deposition, do you recall telling us that Mr. Poindexter and Mr. Casey gave absolute deference to Colonel North during that meeting?

Mr. **Cooper**. Well, I would be surprised if that is my formulation, but the record will speak for itself. I do not—with respect to factual matters, everybody in the room was deferring to North, yes. If that is the sense of which I used the term, but it was not like these men, these Cabinet officials were somehow in awe or in deference, or taking some kind of a particularly deferential or respectful position vis-a-vis North, although they quite obviously knew him very well, and he was comfortable around them, and they were comfortable around him.

I had never met—I don't think I had ever met anyone there except—well, I certainly hadn't met North before, and I don't believe I had met Mr. Casey before that time. I was deferential to them, I can recall that.

Ms. **Naughton**. What was Mr. North's position or assertion during that meeting regarding why the missiles were returned by Iran?

Mr. **Cooper**. His assertion was consistent with the chronology that we have previously discussed, and even more consistent with a chronology that we have not discussed which is the 11-20 chronology, but the upshot of it was that we, the United States, were upset about this transfer of 18 HAWK missiles because it in some way interfered seriously with our own efforts and our own plans vis-a-vis Iran, and that North had been tasked in no uncertain terms to get those HAWKs back, and that he, it is my recollection he used the term "jawbone" to describe how it was that he got the HAWK back from the Iranians.

Ms. **Naughton**. So, in North's version to this group meeting to draft Mr. Casey's testimony, he stated that the Iranians wanted to keep the HAWKs and indeed, he had to use some persuasion to get them back from them; is that correct?

Mr. **Cooper**. That is accurate.

Ms. **Naughton**. Now, I direct your attention to CJC exhibit no. 8, which is a barely legible PROF note. Mr. Cooper, were you aware of such PROF note's existence during this period of November 1986, when you were tasked to draft legal opinions?

Mr. **Cooper**. No, Ms. Naughton, I continue to believe that the first time I had ever seen a document appearing as this one does or being described as a PROF note was when you showed this document to me earlier this week.

Ms. **Naughton**. So, Admiral Poindexter never told you of any such PROF messages at any time; is that correct?

Mr. **Cooper**. Oh, yes, that is certainly correct.

Ms. **Naughton**. And Oliver North never told you of any such PROF messages at any time, did he?

Mr. **Cooper**. No, he did not.

Ms. NAUGHTON. Let's go through this one. This one is dated November 20, 1985. It is a note from Oliver North to John Poindexter, and it is regarding Private Blank Check, which was the code name. It is a wrap-up as of 2030 hours stating, "The Israelis will deliver 80 modified HAWKS at noon on Friday, 22 November. These 80 will be loaded aboard three chartered aircraft owned by a proprietary which will take off at 2-hour intervals for Tabriz.

"The aircraft will fly overflight through the—"blank"—en route to Tabriz. Appropriate arrangements have been made with the proper—"blank"—air control personnel. Once the aircraft have been launched, their departure will be confirmed by—"blank"—who will call—"blank"—and it goes on to explain the arrangements.

The second paragraph states,

> There is a requirement for 40 additional weapons of the same nomenclature for a total requirement of 120. $10 million as payment for the first 80 has been deposited in the appropriate account. No ACFT aircraft will land at Tabriz until the AMCITZ, American citizens, have been delivered to the Embassy. The Iranians have also asked to order additional items in the future, and have been told that they will be considered after this activity has succeeded.
>
> All transfer arrangements have been made by Dick Secord, who deserves a medal for his extraordinary short-notice efforts.

Mr. Cooper, this seems to be describing, on November 22, 3 days before the HAWKs were delivered to Iran, that Mr. North was indeed instrumental in the delivery of these HAWKs through Israel to Iran; is that correct?

Mr. COOPER. It certainly does.

Ms. NAUGHTON. And yet when he made the assertion in the room preparing to draft testimony before U.S. Congress, and he stated that no one in the U.S. Government was aware that these were HAWKs until January of 1986, Admiral Poindexter did not dispute that, did he?

Mr. COOPER. He did not.

Ms. NAUGHTON. And Mr. North never withdrew his assertion during that meeting, did he?

Mr. COOPER. No, no, he didn't.

Ms. NAUGHTON. And I direct your attention to CJC No. 9, which is another PROF message 2 days later on November 22, 1985, and I won't read it, because it is complicated, involving the arrangements, but will represent for the record that it involves the arrangements and the snafus that they encountered in trying to get the HAWKs delivered ultimately to Iran.

Mr. Cooper, had you seen a copy of that message prior to my showing it to you in your deposition?

Mr. COOPER. I had not.

Ms. NAUGHTON. And I direct your attention to exhibit no. 10, which is a PROF message on December 4, 1985, again from Oliver North to John Poindexter, subject, Private Blank Check, the second paragraph of which reads, "The attempted transfer of 18 HAWK missiles went awry because the Iranians were, in fact, seeking a weapons system that would be capable of stopping Soviet reconnaissance flights along the Iranian/Soviet border and on the Iranian/Iraq border. Ghorba"—meaning Ghorbanifar—"reported that these flights occurred regularly and as deep"—that is a hard word to read—"as 40 miles inside Iranian air space."

> Because Schwimmer and Ledeen were unfamiliar with the operational parameters of the HAWK, they agreed to ship 120 weapons that were totally inadequate

> to meet the requirements established by the Iranians. This delivery has created an atmosphere of extraordinary distrust on the part of the Iranians.

Mr. Cooper, had you seen a copy of this PROF message prior to my showing it to you in your deposition?

Mr. COOPER. No, I did not.

Ms. NAUGHTON. And it is clear from this PROF message, is it not, that Mr. North is stating to Mr. Poindexter that it was, indeed, the Iranians who were displeased with the HAWKS?

Mr. COOPER. Oh, that seems quite clear.

Ms. NAUGHTON. Was it your impression from the drafting session then that the position Mr. Casey was going to take at his testimony was that the United States had opposed the shipment of HAWKs and, indeed, had to send, or Mr. McFarlane had to send Oliver North to jawbone to get HAWKs back?

Mr. COOPER. I understood that to be the facts that nobody disputed. Whether or not that was going to be imported in the testimony, I just don't remember. If the testimony that he ultimately gave reflects that then I guess it is, but I just don't recall.

Ms. NAUGHTON. But at any rate, CJC-10, the PROF message of December 4, indicates quite clearly it was just the opposite, the Iranians didn't want the missiles?

Mr. COOPER. That is clearly what it reveals and certainly that is what I learned not long thereafter.

Ms. NAUGHTON. Turning your attention to exhibit no. 11, which is a chronology prepared by the CIA and sent to the White House as exhibited in the upper-right-handcorner, the words, "Ollie North-JP," John Poindexter's signature.

Directing your attention to page 2, the second full paragraph which reads,

> In November 1985, as the next step in the operation, the NSC arranged for Israel to send 18 HAWK missiles to Iran. However, the Israelis neglected to remove the Israeli markings from some of the missiles.
>
> This oversight, plus the fact that the Iranians had been led to expect that they would be receiving—"blank"—HAWK missiles, led to a huge disagreement which caused further developments to grind to a halt.

Now, while you were in that drafting session, or any time before that, had you ever seen a document which said that the NSC had arranged for this November HAWK shipments?

Mr. COOPER. No, I do not believe I had.

Ms. NAUGHTON. And Colonel North during that drafting session meeting did not say did he—that the NSC had actually arranged for that HAWK shipments?

Mr. COOPER. Quite to the contrary.

Ms. NAUGHTON. And Mr. Poindexter did not dispute that, did he?

Mr. COOPER. He did not dispute that no one in the U.S. Government even knew about it.

Ms. NAUGHTON. Going then to exhibit no. 12, which is the Finding drafted by Mr. Sporkin of the Central Intelligence Agency and dated, 26 November 1985. I direct your attention to a cover letter which is transmitting this Finding from Director Casey to Admiral Poindexter at the NSC stating, "Pursuant to our conversation this should go to the President for his signature and should not be passed around in any hands below our level."

Further, it states, "the text of the Finding, that I have been briefed on the efforts being made by private parties to obtain the release of American hostages held in the Middle East and hereby find that the following operations in foreign countries (including all support necessary to such operations) are important to the national security of the United States.

> Because of the extreme sensitivity of these operations, in the exercise of the President's constitutional authorities, I direct the Director of Central Intelligence not to brief the Congress of the United States as provided for in Section 501 of the National Security Act of 1947, as amended, until such time as I may direct otherwise.

The description of the operation is as follows:

> The provision of assistance by the Central Intelligence Agency to private parties in their attempt to obtain the release of Americans held hostage in the Middle East. Such assistance is to include the provision of transportation, communications, and other necessary support. As part of these efforts certain foreign materiel and munitions may be provided to the Government of Iran which is taking steps to facilitate the release of the American hostages.
>
> All prior actions taken by the U.S. Government officials in furtherance of this effort are hereby ratified.

Mr. Cooper, had you seen this document before the drafting session on November, 1986?

Mr. COOPER. No, I had not.

Ms. NAUGHTON. Would it be fair to characterize it as clearly a Finding which states that arms and other support will be given by the CIA in exchange for the release of the hostages?

Mr. COOPER. I would not quarrel with that description.

Ms. NAUGHTON. And it describes, does it not, prior actions which may have been taken by U.S. officials?

Mr. COOPER. Yes, it does.

Ms. NAUGHTON. And it is dated 26 November 1985; is that correct?

Mr. COOPER. Well the cover—the cover letter is. Is the Finding itself? I would be surprised to see that the Finding itself was, because I did see this Finding during the weekend fact gathering, but I never saw this cover, to my recollection, and I think I would have noted that.

Ms. NAUGHTON. Presuming that the contents of the cover is accurate and that the Finding is being sent with the cover sheet, the Finding therefore had to be transmitted on or about November 26, 1985; is that correct?

Mr. COOPER. It is, and it certainly squares with other information that I received during the weekend.

Ms. NAUGHTON. And it is to Admiral Poindexter from Director Casey; is that correct?

Mr. COOPER. That is accurate.

Ms. NAUGHTON. And it describes an arms for hostage activity and refers to prior actions taken, correct?

Mr. COOPER. It does.

Ms. NAUGHTON. And yet during that session in the drafting of Mr. Casey's testimony when Oliver North asserted that no one in the U.S. Government knew of the HAWK arms transactions prior to January of 1986, Mr. Poindexter did not object, did he?

Mr. COOPER. That is true.

Ms. NAUGHTON. And Mr. Casey did not object, did he?

Mr. **Cooper**. That is true as well. I guess I would point out, though, that there were people apparently under the impression—certainly I was under the impression, early on that the Israelis delivered oil-drilling equipment, and that was something that was contained in various chronologies, and not HAWKs.

Ms. **Naughton**. Mr. Cooper, do you see the phraseology, "drilling equipment," anywhere in this Finding?

Mr. **Cooper**. Oh, no.

Ms. **Naughton**. There is the word, "munitions," however. Correct?

Mr. **Cooper**. Oh, yes.

Ms. **Naughton**. And while you sat there at this session drafting Director Casey's testimony, did you know that indeed there were CIA cables that CIA headquarters had received which related that the pilot of this aircraft piloting the HAWK missiles had indeed cabled the CIA through the air traffic controller, that the CIA had picked up the pilot's comments, that indeed he knew he was carrying military equipment? Were you aware of those cables, Mr. Cooper?

Mr. **Cooper**. I certainly wasn't. I was the next morning, however, or at least I picked up my first suggestion of that fact.

Ms. **Naughton**. Could you tell us again why it would be significant legally if it had occurred indeed that this HAWK shipment had the assistance of the CIA and possibly the National Security Council and a Finding had not been made?

Mr. **Cooper**. If the CIA assisted in such an intelligence activity, it would require a Finding.

Ms. **Naughton**. And to your knowledge, there was no Finding prior to January of 1986; is that correct?

Mr. **Cooper**. That is correct.

Ms. **Naughton**. Now after this session in which you met to revise Director Casey's testimony, did you proceed into Mr. Wallison's office?

Mr. **Cooper**. Yes, I did.

Ms. **Naughton**. And while you were there did he receive a call from Judge Sofaer from the State Department?

Mr. **Cooper**. He did.

Ms. **Naughton**. And while you were there, did you speak to Judge Sofaer?

Mr. **Cooper**. Briefly.

Ms. **Naughton**. What did he have to tell you about this issue?

Mr. **Cooper**. What he told me was that he was very worried and concerned—you know, something to that effect—about the information that was then apparently going to be provided to Congress the following day. He did not want, however, to discuss the matter further with me, and I think that Mr. Wallison was on the phone with me at the time—with us, on a nonsecure line. And so that was about the end of my conversation with him.

He then called back on the secure line.

Ms. **Naughton**. In Mr. Wallison's office—to Mr. Wallison's office?

Mr. **Cooper**. Yes.

Ms. **Naughton**. Did you talk to him on the secure line?

Mr. **Cooper**. I did not to my recollection, but Peter Wallison did.

Ms. NAUGHTON. Did he relate to you what Judge Sofaer's concerns were?

Mr. COOPER. Peter did.

Ms. NAUGHTON. What did he tell you?

Mr. COOPER. Essentially that the State Department believes that we did know that there were HAWKs—I shouldn't say HAWKs, because I don't think HAWKs was introduced into the conversation at that point, but that it was something other than oil-drilling equipment, and in particular arms on that Israeli plane or involved in that November episode.

Ms. NAUGHTON. Did Judge Sofaer indicate where he had gotten that information?

Mr. COOPER. Yes, that the Secretary could recall a telephone conversation—I don't remember whether he said November 18th, but certainly before January, and I think in the neighborhood of November 20th, 18th, 20th, around there—could recall a conversation with Mr. McFarlane in which Mr. McFarlane told him there were arms on that plane and essentially described the whole arrangement.

Ms. NAUGHTON. Do you know whether or not that conversation had been recorded in any way?

Mr. COOPER. The secure phone call?

Ms. NAUGHTON. No, Mr. McFarlane's statement to Secretary Shultz, if there had been any notations taken of that?

Mr. COOPER. I did not know then. I did know when I returned to my office some time later and talked with Abe myself.

Ms. NAUGHTON. When this was raised that perhaps Mr. McFarlane had told Secretary Shultz prior to the shipment that it may be military equipment, did that raise concerns in your mind?

Mr. COOPER. Oh, yes, it did.

Ms. NAUGHTON. Why?

Mr. COOPER. Because I had just left the meeting literally moments before in which a representation was made to the effect that no one in the U.S. Government knew that there were HAWKs on that plane until January, and the report that Peter Wallison had given us was not consistent with that.

Now, I should add, Peter, I don't think fully appreciated at the moment the nature of the information that he had received, because he was not in the meeting that I was in wherein a different understanding was discussed and agreed upon.

Ms. NAUGHTON. Do you know whether or not anyone checked with Mr. McFarlane or Colonel North regarding what Judge Sofaer had told you?

Mr. COOPER. I understand that Mr. Thompson did. Mr. Thompson was in the room with me and Peter, when these events transpired.

Ms. NAUGHTON. Do you recall what he told you Mr. McFarlane's position was about that conversation?

Mr. COOPER. Well, in the meeting with Peter Wallison in Peter Wallison's office I remember outlining in the firmest, courteous terms that I could formulate to Mr. Thompson that this was a very serious discrepancy and that it would obviously have to be ironed out before the Congress was presented with the information that we previously had been given to understand was the fact.

There was no argument from Paul on that. He fully agreed, and I urged him to get in touch immediately with North and explain to him that there is a serious cloud over the accuracy of the statement that he had made, and get in touch with McFarlane since McFarlane is allegedly the person who had told the Secretary of State.

When I left the meeting it was my understanding he would do that, and I ultimately contacted him by the phone, and he said that he had done that.

Ms. NAUGHTON. When he told you that he had done that, what was the response he had received from Mr. McFarlane.

Mr. COOPER. My understanding is not that he had talked with Mr. McFarlane, it is that he had talked with North, who had talked to Mr. McFarlane.

Ms. NAUGHTON. That is quadruple hearsay, but what was the substance of what they came back with regarding the statement that Secretary Shultz knew was——

Mr. COOPER. They are sticking by their understanding.

Ms. NAUGHTON. Did you speak to Judge Sofaer later that day when you got back to the Department of Justice?

Mr. COOPER. Yes, and I don't remember whether it was prior to the Thompson phone conversation or after, but I did certainly speak with him.

Ms. NAUGHTON. Did he inform you that Under Secretary Armacost was going to be joining Mr. Casey in his testimony before the House and Senate Intelligence Committees on November 21st?

Mr. COOPER. He did.

Ms. NAUGHTON. What did he tell you Mr. Armacost would say if Director Casey made the statement that no one in the U.S. Government knew that they were HAWKs?

Mr. COOPER. We are taking things slightly out of order. What happened was when I talked with Abe, I think I called him, and I said, "Abe, are you certain that this is the recollection?" And he said, "We have a note, we have notes, contemporaneous notes, to that effect." And he also told me the word "HAWKs" is in the note. So when I talked to Paul Thompson, I reiterated and reemphasized that now there is additional reason to accord credibility to the Secretary of State's understanding.

But, yes, he did also tell me that he was going to be present with Mr. Armacost, I think it was Armacost, somebody, in any event, as counsel for the State Department and that if the inaccurate information was displayed before Congress that he would be bound to insist that his client immediately state his contrary understanding.

Ms. NAUGHTON. In other words, if Director Casey were to say no one in the U.S. Government knew it was HAWKs, what was Mr. Armacost going to say in his congressional testimony?

Mr. COOPER. I concluded that he was going to say that is not consistent with our information, although Mr. Sofaer and I did not talk about the "no one in the U.S. Government" formulation. However, we knew together what the disparity was.

Ms. NAUGHTON. Did Judge Sofaer indicate whether or not he felt that he would have to leave government if indeed Director Casey made this statement?

Mr. **Cooper**. He made a statement to the effect that essentially if the events that he described did, in fact, unfold, that he felt it almost certain that he would leave government.

Ms. **Naughton**. Why?

Mr. **Cooper**. I can only—he did not elongate on his purposes, but what I inferred was that he could not abide such an event. He obviously had a whole lot of confidence that indeed the Secretary of State's understanding of the facts was the correct one and that individuals who probably knew otherwise were going to state an incorrect statement of the facts. And I concurred with him that there would be a lot of us who left government under such circumstances as that.

Ms. **Naughton**. After you talked to Judge Sofaer, did you notify the Attorney General of this discrepancy?

Mr. **Cooper**. I did, but I have to tell you that I tried to assuage his concerns, that is Judge Sofaer's, along those lines, because it was my view that the event that he was concerned about would never happen, that the Attorney General would ensure that it never happened.

Ms. **Naughton**. Did you call the Attorney General?

Mr. **Cooper**. I did.

Ms. **Naughton**. Where was he?

Mr. **Cooper**. He was in West Point at a banquet of some kind and making a speech.

Ms. **Naughton**. And when you did get a hold of him, did you tell him what Judge Sofaer had told you?

Mr. **Cooper**. I did. After a lot of effort to get a secure phone call with the Attorney General, I outlined the events that we have just gone through.

Ms. **Naughton**. And what was the Attorney General's reaction?

Mr. **Cooper**. He agreed entirely with my urgent suggestion that he return as soon as it was possible and try to take responsibility for getting his arms around this Iranian initiative and ironing out any and all discrepancies and getting to the bottom of it.

Ms. **Naughton**. Did the Attorney General give you any instructions?

Mr. **Cooper**. Yes, he did. He said he would return—he would cancel his trip to Harvard the following day and return to the office early in the morning, that I should be in touch with Poindexter, advise him not to make the statement that was then under a cloud of uncertainty, and that I should also make known to Director Casey somehow, perhaps call Dave Doherty, all of which I did.

Ms. **Naughton**. Did you speak to Admiral Poindexter that night?

Mr. **Cooper**. I did.

Ms. **Naughton**. This would have been Thursday night, is that correct, the 20th?

Mr. **Cooper**. Yes, it was Thursday night, quite late by that time, I believe.

Ms. **Naughton**. Did you describe to Admiral Poindexter what Judge Sofaer had told you about the serious discrepancy in the proposed Casey testimony?

Mr. **Cooper**. I don't think I did, but I had described it to Paul Thompson, and Paul Thompson, I understood, would be in touch with Poindexter and make clear that Poindexter should not say what it is he had been prepared to say. It is my recollection that I just outlined that there was a discrepancy.

Ms. NAUGHTON. By the way, in preparing for Mr. Casey's testimony, it is true, is it not, that Admiral Poindexter was also going to brief the members of the Intelligence Committees at the same time?

Mr. COOPER. That is exactly right

Ms. NAUGHTON. During the drafting of the meeting, was Admiral Poindexter preparing an outline of his briefing that would correspond with Mr. Casey's testimony?

Mr. COOPER. That was my understanding.

Ms. NAUGHTON. When you spoke to Admiral Poindexter late on Thursday night, did he give you more facts about the HAWKs transaction, or did he explain away the discrepancy to you?

Mr. COOPER. Oh, no. I continued to understand that he had no personal knowledge to bring to this question, just that if there is a discrepancy, fine, of course, I will refrain from saying whatever it is we are not confident is correct.

Mr. RUDMAN [presiding]. Ms. Naughton, this might be a good place to take a short break. We will take a brief recess for 5 or 10 minutes.

Mr. COOPER. Thank you, Senator Rudman.

[Recess.]

Mr. RUDMAN. The committee will be in order.

Ms. Naughton, please proceed.

Ms. NAUGHTON. Thank you very much, Mr. Chairman.

Mr. Cooper, when last we left you, it was very late Thursday evening on November 20, 1986, and you were placing these phone calls to try to get Mr. Casey's testimony revised or at least looked at again. Did Admiral Poindexter tell you that he had spoken to Director Casey?

Mr. COOPER. Yes. Yes, he did.

Ms. NAUGHTON. What did he tell you Director Casey had said to him?

Mr. COOPER. Well, Admiral Poindexter's—Admiral Poindexter related to me that he had called Casey for the purpose of advising him of this discrepancy and, however, that Director Casey, he had woken him up, and he did not believe that he had successfully communicated with him, that Casey was quite groggy.

Ms. NAUGHTON. Did you make plans to go to the CIA the next morning?

Mr. COOPER. Yes, I did. Not with Poindexter, but I had already had plans to do that.

Ms. NAUGHTON. Now, sometime on or about November 20th, did you receive other draft chronologies, dated November 20, 1986?

Mr. COOPER. Well, yes. Yes, we did.

Ms. NAUGHTON. I direct your attention to CJC exhibit no. 13, which you identified in your deposition as your working draft of the draft chronology as you had marked OLC-2. I direct your attention to page 6 of exhibit 13, which describes the November HAWK shipment.

Mr. COOPER. Yes.

Ms. Naughton. It describes in part the middle of the second full paragraph regarding that shipment and the state of U.S. knowledge at that time, that we, the U.S. Government, we were assured at the time that the Israelis were going to try oil-drilling parts as an incentive since we had expressed so much displeasure over the earlier TOW shipments.

Mr. Cooper, did Colonel North or Admiral Poindexter refer to oil-drilling equipment during your meeting on the 20th of November?

Mr. Cooper. I do not recall that. It is possible that they did, but I don't recall.

Ms. Naughton. To your knowledge, was this version, that is, now it's oil-drilling equipment, was this the first time this version came to your attention?

Mr. Cooper. In this chronology?

Ms. Naughton. Yes.

Mr. Cooper. Well, it is the first time I can state with confidence it came to my attention, but it is possible that I heard oil-drilling before, oil-drilling equipment was something that came repeatedly to my attention in this thing.

Ms. Naughton. Are the notes on exhibit 13, page 6, your notes?

Mr. Cooper. Yes. Yes, they are.

Ms. Naughton. And were they taken in the course of your study of this document over several days?

Mr. Cooper. Yes, they were.

Ms. Naughton. Now, turning your attention to Friday morning, November 21, 1986, did you go to the CIA early that morning?

Mr. Cooper. Yes.

Ms. Naughton. And did you meet with Director Casey?

Mr. Cooper. I did.

Ms. Naughton. And did you explain to him that there was a discrepancy in the statement that no one in the U.S. Government knew they were HAWKs?

Mr. Cooper. I did.

Ms. Naughton. And what was Casey's reaction?

Mr. Cooper. Well, it was not—it was one that didn't resist that proposition in the least. In fact, the sentence that I was most concerned about was one that Mr. Doherty, with whom I spoke in the neighborhood of 11:00 or 12:00 the previous night, had already focused on and had already, according to him, deleted.

So there was no argument about it. I did not—it was perfectly fine with everybody that we delete that sentence. There was a cloud hanging over its accuracy.

Ms. Naughton. Did Mr. Doherty explain to you at any time why they deleted that statement?

Mr. Cooper. Yes, he did, and I must say that within the last 2 or 3 days my memory on this has been refreshed by Mr. Doherty, but indeed I do recall it very well now.

He related to me that in their own efforts to try to piece together the CIA's activities, that is, the general counsel's office efforts, they had been in touch with Stanley Sporkin and that Judge Sporkin had advised them that he knew that there were arms, perhaps not HAWKs, but he knew that there were arms on that plane within a few days at the maximum of its—of the event.

So they knew immediately that the statement relating U.S. knowledge to January couldn't be accurate and as I understood it, out of caution, they just struck the whole sentence and that, of course, satisfied me.

Ms. **Naughton**. So the change in the CIA's testimony, the genesis of which was Judge Sporkin's comment; correct?

Mr. **Cooper**. That is my understanding.

Ms. **Naughton**. Not from the DCI?

Mr. **Cooper**. It did not emanate from the DCI, no. It emanated from Judge Sporkin. It didn't emanate from the same source in the State Department that I had reasons to doubt it.

Ms. **Naughton**. Directing your attention to exhibit CJC no. 7, we have here an excerpt of Director Casey's testimony before the House Permanent Select Committee on Intelligence on November 21, 1985.

If you will bear with me, we will read the relevant portions of what exactly Director Casey told the Congress on that day.

I am reading from exhibit 7 towards the bottom of the page.

> The CIA's involvement began in late November of 1985 when the Agency was there asked to recommended a reliable airline that could transport bulky cargo to an unspecified location in the Middle East. This requirement specified that the carrier had to be reliable and able to move rapidly, quickly.
>
> A propriety of ours which regularly took on commercial ventures was designated. When the plane got to Tel Aviv, the crew was informed that the cargo was spare parts for oil fields and that it was to go to Tabriz.
>
> Our 'blank' back in Washington decided that in order to protect the plane, our 'blank' should be asked to get flight clearances into Iran, and this was done.
>
> On 25 November 1985, the plane dropped the cargo in Tehran. To the best of our knowledge, neither the Israelis nor the Iranians knew that they were dealing with a CIA proprietary, and believed it to be just another commercial charter airliner. The airliner was paid the normal commercial rate which amounted to approximately $127,000.

And then later on page 45 of the transcript, in response to Mr. Beilenson's question,

> Has there been beyond that through Israel, for example, any major transfers of arms to Iran?

Mr. Casey's response,

> Well, we suspect there have been and we do know that the Israelis provided some weapons to them before we got involved, but that is, in a very complicated way, some of that has been aborted, some of that has been adjusted, so that we take responsibility for the 2008 TOWs plus the HAWK missile parts.
>
> Mr. Beilenson. Have the Israelis made any shipments that require notification or require permission from the United States before transferring to Iran, do you know?
>
> Mr. Casey. There was one shipment that was made in the summer of 1985, which we heard about later, that for a time in order to keep this going we waived, or didn't take action on the failure of the Israelis to get the necessary permission and we have since, I believe, straightened that out.

That is, I believe, a reference to the August TOW shipments.

Mr. Cooper, in that testimony, do you see anywhere where Mr. Casey told the Congress that, indeed, there was a November 1985 shipment of HAWK missiles?

Mr. **Cooper**. No, I do not.

Ms. **Naughton**. Now, after you left the CIA on the morning of November 21, 1986, did you go back to the Department of Justice?

Mr. **Cooper**. Yes, I did.

Ms. **Naughton**. And did you meet with the Attorney General?

Mr. COOPER. I am sure that I did, yes.

Ms. NAUGHTON. And did he indicate—did you discuss with him the idea of him going to the President to get authority to gather facts in order to straighten this out?

Mr. COOPER. Absolutely. We discussed it as well on the secure phone call Thursday evening.

Ms. NAUGHTON. And did indeed the Attorney General meet with the President that morning?

Mr. COOPER. He did.

Ms. NAUGHTON. Do you know whether or not he met with anyone else that morning at the White House?

Mr. COOPER. It is my understanding that Mr. Regan was with the President during the meeting.

Ms. NAUGHTON. Anyone else?

Mr. COOPER. That is—that is all that I had when I did this chronology or have now a recollection of.

Ms. NAUGHTON. And what did the Attorney General tell you that the President had told him regarding this situation?

Mr. COOPER. What did the President tell him?

Ms. NAUGHTON. What did the Attorney General tell you that the President had said regarding this situation?

Mr. COOPER. Just that absolutely he agreed with the Attorney General that the Attorney General should undertake to gather the facts and straighten out any wrinkles in our state of knowledge about this initiative and to proceed forthwith.

Ms. NAUGHTON. Was it ever discussed between you and the Attorney General or anyone in the Department of Justice that you should just perhaps ask the President if he authorized this 1985 shipment?

Mr. COOPER. It certainly wasn't discussed at that point, no, but ultimately, obviously, at the conclusion of our effort, the Attorney General's effort to gather the facts the Attorney General fully intended to ask the President the state of his knowledge of the facts on this.

Ms. NAUGHTON. So that was to be the last step.

Mr. COOPER. I think that the Attorney General went there for permission to do this, and with a reason for wanting to undertake this task, one of—well, it is obvious. And I don't think that he planned—we didn't discus it, but I certainly don't think he planned to begin his effort to find the facts by interviewing the President on this.

Ms. NAUGHTON. Do you know whether or not the Attorney General asked the President if he knew there were HAWKs on the shipment?

Mr. COOPER. I do not. It is entirely possible that he did, but I have no recollection of that fact.

Ms. NAUGHTON. Were you given a deadline for reporting back to the President?

Mr. COOPER. Yes, the President wanted the Attorney General, if at all possible, to report back to him by Monday, the following Monday because a NSPG meeting had been scheduled in which everybody could discuss this whole matter; that is, everybody on the NSPG could discuss the Iranian initiative. It was my understanding it was going to—the President anticipated it would be a stern session.

Ms. NAUGHTON. Now, later that day on the 21st of November on Friday, did you interview Robert McFarlane?

Mr. COOPER. Yes. Certainly.

Ms. NAUGHTON. Who was present when he was interviewed?

Mr. COOPER. Me, and the Attorney General.

Ms. NAUGHTON. And I direct your attention, if you need it, to exhibits nos. 14 and 15 which are your uncompleted report of the interview and your notes of the interview.

Did Mr. McFarlane say that he knew about the HAWK shipment prior to November 25, 1985?

Mr. COOPER. No, he did not.

Ms. NAUGHTON. What did he say about the HAWK shipment?

Mr. COOPER. Well, my recollection does not supplement very much the notes that I took at the time. Or at all, frankly. But he indicated he did not know that there were HAWKs on the plane until substantially after the November transfer, and I think he represented that he didn't know until May when he came back into the government to complete a diplomatic mission on behalf of the President.

Ms. NAUGHTON. So he disclaimed prior knowledge of the HAWK shipments, correct?

Mr. COOPER. Yes.

Ms. NAUGHTON. Did Mr. McFarlane mention to you the diversion of the Iranian arms moneys to the Contras?

Mr. COOPER. No.

Ms. NAUGHTON. Did he mention with you any plans to alter or destroy documents at the National Security Council?

Mr. COOPER. Most certainly not.

Ms. NAUGHTON. Did he and the Attorney General discuss at that time the possibility of oral Findings?

Mr. COOPER. No, not in my presence.

Ms. NAUGHTON. After the conclusion of the interview, and you left the room, did Mr. McFarlane stay back and talk to the Attorney General briefly?

Mr. COOPER. He did. We left together, but he then wheeled and basically went back into the office with the Attorney General.

Ms. NAUGHTON. And they spoke alone together?

Mr. COOPER. Yes, very briefly.

Ms. NAUGHTON. Did the Attorney General tell you later what Mr. McFarlane had said to him?

Mr. COOPER. He did.

Ms. NAUGHTON. What did he tell you?

Mr. COOPER. I have only a general recollection to the effect that Mr. McFarlane said, "You know, I am trying and I am hopeful that I can keep the President's interests uppermost in this. I am trying to protect the President," something to that effect.

Ms. NAUGHTON. Did you discuss Mr. McFarlane's interview with the Attorney General after he left, after Mr. McFarlane left?

Mr. COOPER. Briefly.

Ms. NAUGHTON. And what did you conclude or think or what was your impression about his credibility during the interview?

Mr. COOPER. You know, I would like to back up just a tad because I haven't read the Tower Report, but the one snippet that I have read basically is a place where McFarlane describes that little meeting without me, and it is—it sounds familiar to me in terms of the Attorney General's report, except I have no recollection of the Attorney General saying anything about the President's legal position.

Ms. NAUGHTON. OK.

Mr. COOPER. I am sorry. What was your other question?

Ms. NAUGHTON. My other question, I will have to go back, what was the impression that you had, after the interview, of Mr. McFarlane's credibility during the interview?

Mr. COOPER. Well, let me preface this by saying that I feel awkward characterizing my thoughts on that because I have had that conversation with Mr. McFarlane and no other. So I have no basis for making any judgments other than the judgments I would accord him as a matter of presumption, but I have to also say that I did not leave the interview nor did I take it during the interview that Mr. McFarlane was being entirely straightforward and entirely forthcoming.

Ms. NAUGHTON. Were arrangements made for a team from the Department of Justice to go over and review NSC documents?

Mr. COOPER. Yes.

Ms. NAUGHTON. Do you know who made those arrangements?

Mr. COOPER. Primarily my assistant, Mr. McGinnis, although I was involved that evening as well on the phone——

Ms. NAUGHTON. Excuse me, NSC, to review NSC documents.

Mr. COOPER. Oh, I beg your pardon. I did have another agency in mind.

Yes, arrangements were made certainly.

Ms. NAUGHTON. Did the Attorney General make those arrangements?

Mr. COOPER. Yes.

Ms. NAUGHTON. Did he do that with Admiral Poindexter?

Mr. COOPER. That is my understanding.

Ms. NAUGHTON. Were you present when the Attorney General called Admiral Poindexter to arrange to have NSC documents made available?

Mr. COOPER. It is not my recollection that I was, but it is possible that I was.

Ms. NAUGHTON. Now, the next day, Saturday, November 22, did you and the Attorney General interview Secretary of State Shultz and his aide, Charles Hill?

Mr. COOPER. We did.

Ms. NAUGHTON. Was that at the State Department?

Mr. COOPER. It was.

Ms. NAUGHTON. And what did Secretary Shultz tell you regarding the November, 1985 shipment?

Mr. COOPER. He related an account that was quite closely similar to what I had been given to believe he would relate, that indeed there had been a conversation, he thought it was in person, which while they were in Geneva at the Summit, Mr. McFarlane came to him and described to him an event in the offing that would involve the transfer of a quantity of HAWK missiles and that it was contemplated that the American hostages would be released in consequence of that.

Ms. NAUGHTON. So Secretary of State Shultz was informed in advance of the HAWK shipments?

Mr. COOPER. Well, that was his understanding, and he said the conversation took place on the 18th, so that seemed to be accurate.

Ms. NAUGHTON. Did Secretary of State Shultz indicate to you that this conversation was documented in any way?

Mr. COOPER. He did. It may well have been Mr. Hill who indicated that, but in any event, Mr. Hill had notes. It was Mr. Hill who had the notes of the conversation. I had expected when we arrived that it was actually the Secretary of State himself who had taken notes, but that was not the case. Hill had taken the notes as the Secretary of State related the conversation to him.

Ms. NAUGHTON. Did you ultimately retrieve a copy of Mr. Hill's notes on this subject?

Mr. COOPER. Yes, a couple days later.

Ms. NAUGHTON. For the record, that is included in CJC exhibit no. 17.

What was your impression, Mr. Cooper, regarding the extent of Secretary Shultz's knowledge regarding the Iran arms sales?

Mr. COOPER. That it was a little more extensive than I had been prepared for, but that he was not an integral part of the implementation of that policy.

Ms. NAUGHTON. At some point mid-morning on Saturday, did a Department of Justice team go over to review documents at the National Security Council?

Mr. COOPER. Yes.

Ms. NAUGHTON. And who was on that team?

Mr. COOPER. Mr. Reynolds, Brad Reynolds, and John Richardson.

Ms. NAUGHTON. Can you tell us their titles?

Mr. COOPER. Yes, Brad Reynolds is the Assistant Attorney General for the Civil Rights Division, he was at the time, he still is; and Mr. Richardson, I think his title is Chief of Staff to the Attorney General. It may well be that at that time he was titled only Special Assistant. I don't know.

Ms. NAUGHTON. And after they had reviewed documents for a while, did you and the Attorney General meet them for lunch?

Mr. COOPER. Yes.

Ms. NAUGHTON. Do you recall approximately when this occurred?

Mr. COOPER. Well, I recall only what my chronology relates, and it suggests that the lunch took place around 12:30 to 1:45.

Ms. NAUGHTON. And when the lunch began, did you begin to discuss what you had learned in your interview with Secretary Shultz?

Mr. COOPER. I am sure we did go through that with John and Brad.

Ms. NAUGHTON. And later in conversation, did Mr. Reynolds mention to you a memo that he had found in Colonel North's office?

Mr. COOPER. Yes, it was not too far into the conversation, and he did mention a memo that he had found.

Ms. NAUGHTON. What did he tell you about the memo?

Mr. Cooper. Only that there is a memo that he had come across, and obviously resolved to get a copy of, that suggested the possibility that some of the moneys that had been generated and paid by the Iranians for the arms, a particular arms transaction, had been provided to the Contras, to the Nicaraguan Resistance, or something.

Ms. Naughton. When Mr. Reynolds revealed this, what was the reaction of the other people at lunch?

Mr. Cooper. Well, it was one of great surprise.

Ms. Naughton. What was the Attorney General's reaction to that news that the funds had been diverted—or the possibility that the funds had been diverted to the Contras?

Mr. Cooper. He—my recollection is that the Attorney General said something analogous to "Oh, darn." Perhaps more strenuous than that.

Ms. Naughton. Did Mr. Reynolds say whether or not he had found a cover memorandum to that shall we call it the diversion memo?

Mr. Cooper. No, he didn't.

Ms. Naughton. Was there a discussion of whether there was a cover memo?

Mr. Cooper. There was not, not at lunch, not to my recollection, no.

Ms. Naughton. Did you discuss who may have received the memo?

Mr. Cooper. Oh, yes. Yes, we did. We obviously had in mind what this memo meant, whether it reflected an event that actually transpired—keep in mind that the memo discusses this as a planned event—and who knew about it if indeed it transpired.

Ms. Naughton. Did you also discuss the impact the memo would have if released?

Mr. Cooper. I do not recall any discussion about the impact that the memo would have. I think we—in fact, I don't recall articulation at the table regarding the impact that the information if, in fact, it was proved true would have, but I don't think there was any doubt in anybody's mind on that.

Ms. Naughton. Did you and the Attorney General discuss such impact later on on the way back to the Department of Justice?

Mr. Cooper. I can recall the Attorney General and I returning to the Department in his car and discussing this new potential information. We both certainly—I can recall him expressing worry about it and concern. That is about it.

Ms. Naughton. Could you be more specific in terms of why he was worried?

Mr. Cooper. Oh, well, yes. I think we both recognized two things about it. It had legal significance, though its legal significance wasn't obvious to me, and I am not sure it is still entirely clear to me, but it had political significance of a very large nature.

Ms. Naughton. Did you discuss at that time the possibility of bringing the FBI into it now?

Mr. Cooper. Oh, no, no.

Ms. Naughton. Did you discuss whether or not to secure the documents at NSC?

Mr. Cooper. No.

Ms. NAUGHTON. Did you know——

Mr. COOPER. Not that I recall. I mean, I don't recall any discussion along those lines from beginning to the end of this.

Ms. NAUGHTON. Did you know that Colonel North was present while Mr. Reynolds and Mr. Richardson were reviewing his documents?

Mr. COOPER. Yes.

During the lunch, both John and Brad had remarked that Colonel North was in an area approximate to them such that they they could actually overhear him having telephone calls.

Ms. NAUGHTON. And when they left for lunch, they left him in his office; is that correct?

Mr. COOPER. That I don't recall. It may well be correct, but I don't recall discussion of that, and I don't know the answer to it.

Ms. NAUGHTON. Did either Mr. Reynolds or Mr. Richardson tell you that Oliver North had told them that he had retained an attorney?

Mr. COOPER. I do recall a discussion to that effect and I have general recollection of that, yes.

Ms. NAUGHTON. Do you know whether or not the Attorney General spoke to Oliver North on Saturday afternoon?

Mr. COOPER. No, I do not know that he did. I do not know that.

In fact, it is my understanding or I would doubt that he did. He certainly didn't do it in my presence.

Let me back up, because I think maybe, and I know this committee has time requirements, but it is important to understand the flavor at least that I received for the alleged statement that Colonel North had retained a lawyer.

As I understand it, as it impressed me, Colonel North at that time was coming in and out of the room where this document review was taking place, and he was attempting to engage Mr. Reynolds and Mr. Richardson in a conversation, in chit-chat and light conversation, as I understand it, and mentioned in passing, perhaps even in joking because he was joking around as I understand it during that time, that he had retained a lawyer or at least that is my general recollection of that event.

Ms. NAUGHTON. Did the Attorney General speak to Oliver North that afternoon to arrange a time that he could interview him?

Mr. COOPER. I don't—on Saturday afternoon?

Ms. NAUGHTON. Yes.

Mr. COOPER. I don't know whether he did, but I suspect that he did. I mean, it is my general understanding that he did, yes, on Saturday.

Ms. NAUGHTON. Did you understand what Oliver North's objection was to the original time schedule for the interview?

Mr. COOPER. It is my general recollection that we had preferred or would have preferred to interview Colonel North Saturday afternoon, and that that was planned, or at least that is my general recollection, but that for reasons that I have no recollection of, Colonel North could not accommodate us at that time and, in fact, it was put over until Sunday and, in fact, on Sunday I recall it was delayed for some short period of time, like an hour, perhaps 2 hours.

Ms. **Naughton**. Was that because he requested that he be given the time to go to church and spend time with his family on Sunday morning?

Mr. **Cooper**. And have lunch at McDonald's. That stays in my mind, yes.

Ms. **Naughton**. Were you aware at some point that the Attorney General had gone to visit Mr. Casey at his home on Saturday evening?

Mr. **Cooper**. Yes, I certainly became aware. I don't know—I have no recall as to whether I was aware of it prior to the time he was going or as he was planning to go or even immediately after he had met with Casey, but yes, I do know he did that.

Ms. **Naughton**. Did he tell you later what they had discussed?

Mr. **Cooper**. Yes.

Ms. **Naughton**. What did he tell you that they discussed?

Mr. **Cooper**. I have a general recollection of a discussion in which the Attorney General related the so-called Furmark matter in which apparently Mr. Furmark represented individuals who were investors or financiers and they were out some substantial sum of money, $10 million seems to occur to me, $10 million, and that they were complaining to Casey that they were out this money.

Ms. **Naughton**. And Saturday evening, did you go to the CIA to conduct interviews of people involved in the transaction?

Mr. **Cooper**. I did.

Ms. **Naughton**. Did you also go to the CIA the morning of November 23, Sunday morning?

Mr. **Cooper**. I did.

Ms. **Naughton**. Did you meet with Director Casey briefly?

Mr. **Cooper**. Very briefly, yes.

Ms. **Naughton**. For what purpose?

Mr. **Cooper**. To discuss whether a particular word, the name of a particular person in Iran would be shared with me by a Mr. Charles Allen, who I was then interviewing, and the upshot of it was that at that time it would not be shared with me, there was no sufficient or good reason for it.

Ms. **Naughton**. Did Mr. Casey indicate to you he had called the Attorney General to see whether or not you should be given that name?

Mr. **Cooper**. Yes, he asked the Attorney General if it was absolutely necessary and the Attorney General didn't see why it was.

Ms. **Naughton**. Later that afternoon on Sunday, did you join the Attorney General, Mr. Richardson, and Mr. Reynolds in interviewing Oliver North?

Mr. **Cooper**. Yes.

Ms. **Naughton**. Did that take place in the Attorney General's office?

Mr. **Cooper**. Yes.

Ms. **Naughton**. Did Colonel North come alone?

Mr. **Cooper**. Yes.

Ms. **Naughton**. Did anyone ask him if he had an attorney?

Mr. **Cooper**. No.

Ms. **Naughton**. Did he say he had an attorney?

Mr. COOPER. I don't recall mention of any kind of his attorney or lawyers.

Ms. NAUGHTON. What did Oliver North tell you regarding the November 1985 HAWK shipment?

Mr. COOPER. Well, we discussed it at some length and he told us essentially that he had received a call, as I recall it now, from Mr. McFarlane, and was told to get in touch with Mr. Rabin, who was then in New York because they were having difficulties with a shipment of some kind. And apparently they were—as I understood it, they were having customs problems or landing rights problems in a particular country.

My recollection is that—and again I would defer to the notes that were taken copiously by John Richardson at this meeting, but my recollection is that he was told that Mr. Rabin sent an assistant of his down to see Mr. North, and explain their difficulties, and that North was told it was oil-drilling parts that they were trying to move to assist in an effort that was consistent with our interest, the U.S. interests.

Ms. NAUGHTON. Did Colonel North tell you he had doubts about the story that it was oil-drilling equipment?

Mr. COOPER. He did. He indicated that he thought it probably wasn't really oil-drilling equipment, but he also made the point that he thought he could pass a lie detector test to the effect that it was oil-drilling equipment.

Ms. NAUGHTON. From whom did he claim he first learned that there were HAWKs on that plane?

Mr. COOPER. He said that jokingly, by the way.

Ms. NAUGHTON. From whom did he first learn that there were actually HAWKs aboard the plane?

Mr. COOPER. He identified, I think, two people who had told him they were HAWKs: Mr. Secord, who he identified as somebody whom he had enlisted to assist in this effort in November, and Mr. Nir from Israel, as having at some point advised him, but Secord apparently was the first person to advise him and advised him in the immediate aftermath of the events.

Ms. NAUGHTON. Was Colonel North eventually questioned about the Contra diversion memo?

Mr. COOPER. Yes, he was.

Ms. NAUGHTON. And who presented the memo to him?

Mr. COOPER. The Attorney General. The Attorney General was the dominant interviewer by far during the time that he was there.

Ms. NAUGHTON. Can you tell us how he was presented the memo?

Mr. COOPER. I can only tell you what my recollection of it is and it is hazy, but it is my recollection that the Attorney General handed him the memorandum and began asking him some questions that had nothing to do with the diversion, questions that do not now stick in my mind. And that—and I do not recall having seen any—during this period I don't recall having seen any register on Mr. North's face that this memo had particular significance, but certainly it did when the Attorney General asked him about the Contra diversion.

Ms. NAUGHTON. Can you recall as specifically as you can what the Attorney General asked him?

Mr. COOPER. I think the Attorney General was asking about finances, finances that were involved in this whole Iran initiative, and he asked him about the moneys that went to the Nicaraguan Resistance.

Ms. NAUGHTON. What was Oliver North's reaction when the Attorney General asked him if any of these funds went to the Nicaraguan Resistance?

Mr. COOPER. He appeared to be visibly surprised and not expecting to hear that question.

Ms. NAUGHTON. Can you describe to us what his reaction was?

Mr. COOPER. Well, I think he—my best recollection is that he paused for a moment, silent, before he responded, and then he responded that—in a way that was responsive, and certainly did not—he acknowledged the transfer to the Contras. But it was just obvious surprise on his face.

Ms. NAUGHTON. Did he ask if there was a cover memo?

Mr. COOPER. Yes, he did. I have a general recollection to that effect. Whether it was immediately, I don't recall, but he did ask that question.

Ms. NAUGHTON. Did the Attorney General ask Oliver North should we have found one?

Mr. COOPER. The Attorney General asked something to the effect—first of all, I think Mr. Reynold said, no there was no cover memo and somebody—and I suspect it was the Attorney General—I think that it was—said essentially, "Why did you ask that question? Is there a cover memo with this? Should we have found one?"

North's response, again to the best of my recollection, was, "No, I just wondered," or something to that effect.

Ms. NAUGHTON. Did anyone in the room ask him if there indeed was or had been a cover memo?

Mr. COOPER. I don't recall. It is entirely possible and there was some conversation about a cover memo, but, you know, at some point we became or at least I became satisfied that it was North's view that there was no cover memo. And I also have a vague recollection that he—and I do recall that this is confirmed by the notes—that he offered to reexamine his files and the documents in a search for such a cover memo if there was one.

Ms. NAUGHTON. Did you ask him to do that?

Mr. COOPER. I don't think we asked him to do it, but I don't think we told him not to do it or anything like that. It just—he made the suggestion. I don't recall the reaction to it.

Ms. NAUGHTON. What steps did you take to find out if indeed there was a cover memo?

Mr. COOPER. If there was a cover memo to the thing—I do not know all of the steps that were taken, but—or at least I am not sure that I know all of them. I do know that in addition to reviewing carefully again the documents—well, I guess I am not sure whether the documents that we had received from NSC were reviewed again or not—but I do know that when we went to the White House on Tuesday morning, John Richardson was required and dispatched to do one last check on that question—actually not on the question of whether there was a cover memo, but on the question whether there was any document anywhere in the NSC files that would suggest an understanding inconsistent or provide any inference inconsistent with what we then believed, which was that the only people in the U.S. Government who knew about any Contra diversion were Poindexter, North, and McFarlane, who was then no longer in the U.S. Government, and that that was a view that was corroborated by Mr. Poindexter and all of the other people who were quizzed on it.

But there was an effort there to make sure there was no document inconsistent with the view that we had come to, that in fact they were the only three who knew anything about it.

Ms. NAUGHTON. To whom did Mr. North say the memo was addressed?

Mr. COOPER. I don't think he—I don't recall him discussing who it was addressed to specifically, although I do recall him saying it was for Poindexter or that it had been given to Poindexter or something to that effect, but that he did not think it had gone any further.

Ms. NAUGHTON. Did Colonel North say that he believed anyone else had seen it?

Mr. COOPER. No. In fact, my recollection is to the contrary of that.

Ms. NAUGHTON. Did he say whether or not the President had seen it, to his knowledge?

Mr. COOPER. Yes. He did not think that the memo had gone to the President.

Ms. NAUGHTON. Did you ask him who in the Government knew of the diversion?

Mr. COOPER. Yes, we did.

Ms. NAUGHTON. And who did he say knew of the diversion?

Mr. COOPER. He identified Mr. Poindexter, Mr. McFarlane, and himself in the Government.

Ms. NAUGHTON. Did he also identify Mr. Secord?

Mr. COOPER. Yes. He identified Secord, and obviously, he identified Nir, because it was his account that Mr. Nir had conceived of the entire arrangement, as I recall. He identified, I guess, a couple of other people, as well, who might know about this.

Ms. NAUGHTON. Do you recall who they were?

Mr. COOPER. Yes, Mr. Calero he thought would know about it. He suggested Secord was the most knowledgeable, however, because I do recall that he did not know how much money might have gone to the Contras through that arrangement, but that Secord would know.

Ms. NAUGHTON. Did he indicate to you that the money had gone straight from the Israelis to three Contra bank accounts?

Mr. COOPER. I think that is what he indicated, yes.

Ms. NAUGHTON. And did he mention to you the name Lake Resources or CSF?

Mr. COOPER. I do not recall that name having been mentioned on that occasion. I guess it is possible. It did not rate the reference in the notes as I recall, and certainly didn't make an impression on my mind.

Ms. NAUGHTON. When you said that Oliver North stated that it was Mr. Nir's idea to divert the moneys to the Contras, did he give you a reason as to why Mr. Nir would want the money diverted to the Contras?

Mr. COOPER. Well, it is my understand that Mr. Nir was portrayed as having been eager to assist the United States in its effort—and Israel, you know, is a staunch ally—he was eager to assist the President of the United States in his effort to assist the Contras, and Nir approached North about it, but I also got the impression that they had discussed this problem previous to the idea.

Ms. NAUGHTON. Did Colonel North mention that he had altered documents?

Mr. COOPER. No, he didn't.

Ms. NAUGHTON. Did he mention to you that he had shredded documents?

Mr. COOPER. Of course, he did not.

Ms. NAUGHTON. Did he mention to you that he was involved in setting up a private Contra resupply operation?

Mr. COOPER. No. He—there was no conversation about that except to the extent that he made reference when he described the three accounts that he got from Calero, or that he gave to Calero and he suggested that, you know, this is how the Contras are helped all the time.

But he didn't put it in the context of any network or any operation of his.

Ms. NAUGHTON. How did you leave it with Colonel North; that is, once the interview had ceased, was he told you would get back to him or was he told to start packing, or what happened?

Mr. COOPER. No. It just ended—I don't recall any more arrangements having been made about talking to him further or anything like that. It just ended with—you know, without anything in particular that would make an impression on one's memory.

Except towards the very end of the meeting, he did make a reference to the whole revelation, really, about the Contra diversion and described it as the only thing black about all of this, and I recall him expressing the hope that it was not among the things that would have to be made known publicly.

Ms. NAUGHTON. Was he given any assurances, any which way, whether or not this would be made public?

Mr. COOPER. Nobody responded to his comment that I can recall in any way.

Ms. NAUGHTON. After he left, was there a discussion as to whether or not this information would be made public?

Mr. COOPER. No. Well, there was never any discussion about whether it would be made public. There was a lot of discussion about when and what might happen when it was made public; the latter of which some of the speculations proved entirely accurate.

But there was never any discussion about whether it would be made public.

Ms. NAUGHTON. Did you fear that the information would leak?

Mr. COOPER. Yes. Yes, we did.

Ms. NAUGHTON. And you made the decision at some point that the President had to announce the diversion, is that correct?

Mr. COOPER. That decision was made on the basis of two reasons—at least I—and the fact that it would leak was only related to when it would be released, not whether it would be released. I think I can remember a lot of discussion about the fact that if this information is made public by anyone other than the President, that it would not be possible to convince anybody that the President had every intention of making it public, and so, it was of utmost importance that these facts be revealed to the American people by the President.

Ms. NAUGHTON. Did you speak to Judge Sofaer later that night on Sunday?

Mr. Cooper, it is not reflected in your chronology, but Judge Sofaer has testified in deposition that you spoke Sunday evening?

Mr. COOPER. His memory is superior to mine on that question then.

Ms. NAUGHTON. Do you recall him telling you he was concerned about what appeared to be an extraordinary profit in the arms sale, and he was concerned that money had been diverted to the Contras because of the involvement of Southern Air Transport in both the Iran arms sales and the Contra resupply operations.

Mr. COOPER. OK. This is helping.

Whether or not that happened Sunday, I don't know.

But I do recall a conversation with Abe to the effect that Southern Air Transport figures into this, which I don't recall having known prior to that. Certainly, if it did—if that had been known to me, it is not one of the facts that had registered importance with me, but Southern Air Transport was involved, and because of Southern Air Transport's relationship to Nicaragua, I think he even mentioned Hasenfus in that conversation. He was very, very concerned.

Ms. NAUGHTON. So here you had someone from the State Department, who apparently had not seen Oliver North's diversion memo, who had not participated in the interview of North, who was calling you to say he thought things were fishy and that money may have gone to the Contras, given all the factors that he was aware of?

Mr. COOPER. Yes. If this conversation took—the only thing I have any entire lack of memory on is the precise timing of that conversation, and I really don't remember him making clear the notion that the Contras might have gotten some of the excess money, but he certainly was aware that there was a lot of excess money in this thing.

Ms. NAUGHTON. On Monday morning, the 24th, did you go to the State Department and retrieve Mr. Hill's note?

Mr. COOPER. Yes.

Ms. NAUGHTON. Did Mr. McGinnis go to the CIA and do some more interviews?

Mr. COOPER. That—I am drawing a blank on that. I guess it is possible that he did, but I don't recall it, and I did not record it in my chronology, and he reviewed the chronology and improved it in some respects. So I don't know, I don't think so.

Ms. NAUGHTON. Did Mr. McGinnis tell you at some point that there was a rumor at the CIA——

Mr. COOPER. Oh, yes.

Ms. NAUGHTON. —that part of the Iran sales money had been diverted to the Contras?

Mr. COOPER. He did do that. I don't think he went out there, but we were in quite constant touch with Mr. Doherty's office.

Mr. Jameson, George Jameson, and Mr. Doherty were working very closely and cooperatively with our effort.

Ms. NAUGHTON. To pick up something about Mr. Jameson, taking you back to Friday morning, when you met with Director Casey regarding his testimony, after you met with Director Casey and he was on his way to the Hill, did Mr. Jameson whisper something to you at the close of that meeting?

Mr. COOPER. He approached me and made known to me they had just received some indication, some suggestion that the pilot of the plane in November had known there was some kind of military equipment on that plane. He did not elaborate.

Ms. NAUGHTON. He told you that on Friday morning before Mr. Casey went to the Hill to testify?

Mr. COOPER. That is correct. That is my recollection.

Ms. NAUGHTON. When Mr. McGinnis told you that there was a rumor at the CIA that the money had been diverted to the Contras, did you bring this information to the attention of the Attorney General?

Mr. COOPER. I feel certain that I did, but I don't recall having done so.

Ms. NAUGHTON. Would it have been some time in the frame of this weekend inquiry?

Mr. COOPER. I should think it was. However, at that stage it was confirmatory, not news; so if I did, or when I did, just escapes me.

Ms. NAUGHTON. Did the Attorney General go to the White House that Monday morning, November 24th?

Mr. COOPER. Yes, he did.

Ms. NAUGHTON. For what purpose?

Mr. COOPER. To report to the President as directed, and he told the President that he needed a little more time.

Ms. NAUGHTON. Did he tell him what he had discovered about the diversion?

Mr. COOPER. Yes, he did, as I understand it.

Ms. NAUGHTON. And what did he tell you the President's reaction was?

Mr. COOPER. One of surprise—I don't recall him elongating on the President's reaction, other than to say it was one of complete surprise and that the President was entirely unawares.

Ms. NAUGHTON. Was anyone else present for this meeting between the Attorney General and the President?

Mr. COOPER. My understanding was that Mr. Regan was present at the time, yes.

Ms. NAUGHTON. Had the Attorney General spoken to others at the White House to ask them about whether they knew about the Contra diversion?

Mr. COOPER. Yes, he did during that timeframe on Monday.

Ms. NAUGHTON. And did he speak to these people alone or in the company with anyone for the Department of Justice?

Mr. COOPER. I think he spoke to them all alone.

Ms. NAUGHTON. With whom did he speak?

Mr. COOPER. He spoke—initially—well—I guess I can tell you the order in which he spoke with these people, but he did speak with Mr. McFarlane, and it is my recollection that Mr. McFarlane was leaving, in fact, as I was returning from the State Department, was leaving the Justice Department, because he did talk to him at the Justice Department. And he spoke with Mr. Poindexter, with the Vice President, with the President and with Mr. Regan.

Ms. NAUGHTON. Of those people, whom did he identify as having knowledge of the diversion of th funds to the Contras?

Mr. COOPER. Mr. McFarlane and Mr. Poindexter.

Ms. NAUGHTON. What did Mr. Poindexter say about his knowledge of that issue?

Mr. COOPER. I might say that knowledge might be putting it a little high, because McFarlane reported to the Attorney General that he hadn't ever been really informed, but he had received hints, indications that he really didn't want to inquire into, and, essentially, he could not tell the Attorney General that he was taken unaware on this. But my understanding is he maintained he had not been told.

Ms. NAUGHTON. He had not been told outright?

Mr. COOPER. Yes, he had not been informed.

Ms. NAUGHTON. At any point?

Mr. COOPER. That was my understanding of his response.

Ms. NAUGHTON. And what about Admiral Poindexter? What did he say about the diversion?

Mr. COOPER. I am sorry, I thought we were talking about Admiral Poindexter.

Ms. NAUGHTON. We were and you went to McFarlane?

Mr. COOPER. I beg your pardon? I mean Poindexter. The event I just described pertains to Poindexter.

Ms. NAUGHTON. Poindexter had hints, but he was never told outright?

Mr. COOPER. That is right. He didn't deny that he knew, however.

Ms. NAUGHTON. And Mr. McFarlane?

Mr. COOPER. Mr. McFarlane acknowledged that he was told outright and that North had made him aware of that fact in May or— in May, I guess, when he came, McFarlane came back into the Government to execute the diplomatic mission to Tehran.

Ms. NAUGHTON. Do you know whether or not the Attorney General took any notes of these meetings with these gentlemen?

Mr. COOPER. I do not understand that he took notes. I understand that he did not take notes.

Ms. NAUGHTON. Do you know any particular reason why he did not take notes?

Mr. COOPER. I would imagine that the responses that he, the question he was going to ask and response he was going to get were not going to be difficult to remember.

Ms. NAUGHTON. Later that afternoon at approximately 2:00 o'clock, did you and Mr. Reynolds meet with Tom Green, an attorney?

Mr. COOPER. Yes, we did.

Ms. NAUGHTON. I won't go into that. Senate counsel intends on questioning you about that meeting, Mr. Cooper.

Then again on November 25 in the morning, did you go to the White House to draft the President's statement regarding the Iran arms sale and the Contra diversion?

Mr. COOPER. I didn't really go there for that purpose, but that is certainly something that I participated in.

Ms. NAUGHTON. With whom did you participate in that drafting session?

Mr. COOPER. Mr. Wallison and Mr. Thomas, Dennis Thomas.

Ms. NAUGHTON. Do you know, Mr. Cooper, when it was decided that Admiral Poindexter and Oliver North would be asked to leave the NSC?

Mr. COOPER. Well, I know that when I arrived at the Department of Justice very early on Tuesday morning after receiving a call at my home from the Attorney General to be there, that the decision had already been made.

Poindexter had, as I understand it, he had even told the Attorney General the previous day when confronted with this Contra diversion that he understood that this meant he had to resign.

He fully understood that.

Ms. NAUGHTON. Do you know who actually made the decision that Admiral Poindexter and Colonel North should resign?

Mr. COOPER. I suspect that—first, Admiral Poindexter apparently made the decision in recognition of what were the indisputable facts. I don't think anybody considered any other course. I would be surprised if they did anyway.

Ms. NAUGHTON. And the Attorney General announced these facts at a press conference some time around noontime of Tuesday morning, the 25th; is that correct?

Mr. COOPER. He did.

Ms. NAUGHTON. And after that, did he task Deputy Attorney General Arnold Burns with securing the documents at the White House?

Mr. COOPER. Some time after that he did, yes. Not very long after that. I think immediately after he returned to the Justice Department.

Ms. NAUGHTON. So Tuesday afternoon, was that the first time that anyone from the Department of Justice, to your knowledge, had taken steps to secure the documents at the NSC?

Mr. COOPER. Yes, it was, to my knowledge.

Ms. NAUGHTON. And did Arnold Burns do that immediately?

Mr. COOPER. My recollection is that he did not. There was a meeting subsequent to the one wherein the Attorney General tasked him—by the way, Mr. Burns is the Deputy Attorney General, and he is the typical point of contact with White House Counsel; that is when the legal counsel is not.

And so this was entirely in keeping with normal processes that he would be asked to do that.

Later on in the day, I think it was the same day, I am virtually certain of that, we had another meeting in which the Attorney General asked if that had been done and Mr. Burns confessed and felt very bad about the fact that it had not been done, but he had misunderstood the Attorney General's directive.

He did not understand that he was supposed to do that immediately.

Ms. NAUGHTON. Do you know when that was finally done?

Mr. COOPER. Well, I understood Mr. Burns to be exiting the office then and there to go and to make that known to Mr. Wallison.

Ms. NAUGHTON. Would that have been Tuesday evening?

Mr. COOPER. That is my best and confident recollection.

Ms. NAUGHTON. When did you—when was the Criminal Division of the Department of Justice first brought into this matter?

Mr. COOPER. I think that—the only thing I have any specific recollection of is when I met with people from Criminal. On Monday night, John McGinnis and I, and John had been during the course of that day, were examining the legal implications of the Contra diversion, particularly insofar as any criminal laws might be concerned.

Tuesday, the following day, I outlined to the Attorney General that there were some criminal implications that couldn't be discounted in my opinion and the Attorney General—actually, I don't recall his reaction at that point, but in any event, the Attorney General instructed Mr. Weld to get with me and for me to outline everything that I had come to learn so that Mr. Weld could bring his expertise as well as he brought with him Mr. Richards, who was an expert in these areas as well, and we discussed this at length Tuesday.

Ms. NAUGHTON. Mr. Weld, for the record, is the Assistant Attorney General for the Criminal Division; is that correct?

Mr. COOPER. That is right, and Mr. Richards is one of his deputies.

Ms. NAUGHTON. Did you attend a meeting the next day on November 26 which included many Criminal Division professionals as well as some FBI agents?

Mr. COOPER. This is on Wednesday?

Ms. NAUGHTON. Yes.

Mr. COOPER. Yes, I did.

Ms. NAUGHTON. And did the Attorney General at that meeting designate Mr. Weld and you as the leaders of the investigation?

Mr. COOPER. He did.

Ms. NAUGHTON. Did that cause any consternation with the FBI?

Mr. COOPER. It was my impression they—vague impression that it did, yes.

Ms. NAUGHTON. Could you describe that? What gave you that impression and what do you suppose their concerns were?

Mr. COOPER. I would be very reluctant to try to psychoanalyze the individuals in the room, but let me give you some flavor for the moment.

The Attorney General and I as well as others had discussed how this matter should proceed and, of course, it should proceed immediately as a criminal matter, criminal investigations using the FBI immediately.

But we also recognized that in addition to the criminal implications on which we were at that point in many ways still are very vague and uncertain, in addition to those concerns, we had civil law concerns.

In fact, all of the statutes that we had identified which potentially could have been directly violated, their substantive prohibitions were civil statutes.

So it was important that the information, it seemed to us, that was derived from the continuation of the criminal investigation be provided to me, the person who was responsible for examining civil legal implications.

Hence, the Attorney General suggested that I would be part of the investigative team. But I do recall an apparent unease about that by some of the people in the room.

It has never been articulated to me that was the fact, but the sense I got was such that I withdrew completely. I never did press the matter again and I don't recall ever having attended the meetings and what have you that were then—that then ensued by the investigative team and not long thereafter the curtain fell on the Department as a whole because an IC was requested and at that time it is traditional for the FBI to more or less Chinese wall itself and its proceedings from the Department.

So that is just my best recollection of the whole episode.

Ms. NAUGHTON. Before that occurred, did the FBI ever brief you on their investigation or any of their interviews?

Mr. COOPER. There was before the curtain fell, so to speak, yes, I do recall—well, certainly they interviewed me. They interviewed me and got from me my notes and the documents that I had come into possession of and that Mr. McGinnis had very shortly thereafter and I also do recall I guess attending one meeting and Mr. Burns chaired the meeting, as I recall, in which the progress of the investigation was discussed and I can recall making a number of suggestions as to people they ought to chat with based upon what information that I had accumulated during this weekend fact-gathering.

Ms. NAUGHTON. Did you also assist in preparing letters to various Executive Branch agencies asking them to collect and preserve their documents regarding the Iran arms sales?

Mr. COOPER. I did. I can recall having reviewed letters to various agencies to that effect.

Ms. NAUGHTON. Do you know when those were drafted?

Mr. COOPER. I am quite certain that it was on Wednesday probably. In fact, I can recall conversation to the effect that we should draft those letters and get them out and that was Wednesday at this large meeting that you have previously described.

Ms. NAUGHTON. Do you know when they actually went out?

Mr. COOPER. My understanding is they didn't go out until the following Friday, Thursday having been Thanksgiving.

Ms. NAUGHTON. And did you know, Mr. Cooper, that the FBI did not actually search or come to the White House to search for documents until Friday?

Mr. COOPER. This was certainly not known to me at that time, but they did send the fellows with the rubber gloves in very soon I was given to understand.

Ms. NAUGHTON. Friday after Thanksgiving; is that correct?

Mr. COOPER. Well, no, I thought it as more promptly than that, frankly. But I just don't know.

Ms. NAUGHTON. Thank you very much, Mr. Cooper.

Mr. Chairman, that ends my examination of the witness. I would move admission of exhibits CJC-1 through 20 into the record and DCI Casey's testimony before the House Permanent Select Committee on Intelligence on November 21, 1986.

Chairman INOUYE. Without objection, so ordered.

The hearing will stand in recess until 2:00 o'clock this afternoon.

[Whereupon, at 12:08 p.m., the Select Committees recessed, to reconvene at 2:00 p.m., the same day.]

## AFTERNOON SESSION

The Select Committees met, pursuant to recess, at 2:09 p.m., in room 325, Russell Senate Office Building, Hon. Daniel K. Inouye (chairman of the Senate Select Committee) and Hon. Lee H. Hamilton (chairman of the House Select Committee) presiding.

Chairman INOUYE. The hearing will please come to order.

Mr. Leon?

Mr. LEON. Thank you, Mr. Chairman.

Good afternoon, Mr. Cooper.

Mr. COOPER. Good afternoon.

Mr. LEON. If I may, I would like to start off by going back over some of the questions—some of the topic areas you were questioned about earlier, to amplify and clarify a few points, if I may.

First of all, with regard to the chronologies, I believe you testified that there were a number of chronologies that came into your possession and your office's possession over this 2-week period, roughly, and you turned them on over to us, did you not?

Mr. COOPER. We certainly turned over all chronologies that came into our possession from whatever source. I think there were at least three different versions of the chronology.

Mr. LEON. And is it also your testimony that with regard to the chronologies, you did not find yourself constantly comparing them line by line, so to speak?

Mr. COOPER. That is correct. I did not do that.

Mr. LEON. Is that because you viewed them as being a dynamic, something that was constantly evolving and being added to as a result of the work that was going on behind the scenes at the NSC to bring new facts to life?

Mr. COOPER. It was my understanding that the effort at NSC was one that was obviously ongoing. It was hectic, and that the chronology, each succeeding chronology that we received was a representation of a better—their better and more perfect understanding of the facts.

Mr. LEON. And certainly, prior to the events of November 20, you had no reason, did you, to suspect that there was anything inherently wrong with those chronologies, or there was any effort being made to misstate the facts in them in any way, shape, or form?

Mr. COOPER. I perceived no reason to believe that. I entertained no such suspicion.

Mr. LEON. In fact, after you left the meeting on the 20th with the Attorney General, and you were heading back to your office, when you got the detour to go over to Mr. Wallison's office, you were proceeding on the assumption that the chronology you had as of that date was pretty much a complete one, and that you could almost rely on that alone to finish up your legal analysis of the issues?

Mr. COOPER. I was satisfied that the individuals were confident of the state of the facts that they had developed and had presented.

Mr. LEON. Now, you testified that after you left that meeting, you went over to meet with Mr. Wallison, isn't that correct?

Mr. COOPER. That is right.

Mr. LEON. And when you got there, Mr. Wallison expressed some concern on his part about his not having been invited to that earlier meeting that afternoon, hadn't he?

Mr. COOPER. He did. I don't think in my earlier testimony that it was entirely clear that Mr. Thompson was with me and accompanied me to Mr. Wallison's office. But there were three of us in the office. Mr. Wallison did indeed take the opportunity to make those points to Mr. Thompson.

Mr. LEON. Was it your sense that the White House Counsel's Office had been, so to speak, frozen out of that meeting earlier that day?

Mr. COOPER. I wouldn't quarrel with that.

Mr. LEON. Now, you spoke with Mr. Wallison, and Judge Sofaer called, and during the course of the conversation you became aware of the conflict, potential conflict between Secretary Shultz's version of the events and Mr. McFarlane's, and you shared that with Mr. Wallison, did you not?

Mr. COOPER. Mr. Wallison?

Mr. LEON. Right.

Mr. COOPER. Actually, it was Mr. Wallison who shared it with me. He was the one who had the secure telephone conversation with Mr. Sofaer, though as I say, I don't think he did—he did not fully perceive the significance of the information that he was passing to us.

I perceived the significance of it.

Mr. LEON. Do you know any knowledge as to whether he passed that information on, potential conflict, to Donald Regan?

Mr. COOPER. I have no knowledge of that at all.

Mr. LEON. Did the Attorney General give you any indication when he met with Donald Regan and the President the following morning that Donald Regan seemed to be aware of the conflict that he, the Attorney General, was at that time bringing to the attention of the President?

Mr. COOPER. I don't remember having received any information on that question.

Mr. LEON. Now, moving to the afternoon of the 21st and your interview with Mr. McFarlane, you testified you were present, you took notes, and your notes are an exhibit here.

Now, with regard to that exhibit, exhibit 15, I would direct your attention to the fourth page of those notes in exhibit 15. In the upper right corner, there is a number, a document identification number 3096, do you have that in front of you?

Mr. COOPER. Yes, sir.

Mr. LEON. Directing your attention to about three-fourths of the way down the page, Mr. Cooper, there is an entry for December 7 that starts off with "M said we should"—and something is crossed out—"provide arms, no talk, re problem with arms already given by Israel"—it looks like that. These are your notes, are they not?

Mr. COOPER. They are.

Mr. LEON. I wanted to ask you if upon reviewing these notes at a later time that you reached any conclusion as to whether or not that statement that I just referred you to was incomplete or incorrect in any way?

Mr. COOPER. Yes, my note is incorrect.

Mr. LEON. How would you like to amend that today?

Mr. COOPER. The note says "Mr. McFarlane said we should provide arms," blah-blah-blah, but it was McFarlane's position throughout our interview that he had consistently recommended in the various meetings in all his many counsels on this with the President and others that we not provide arms, and the rest of my notes are consistent with that view.

This is a mistake on my part. The word "not" is omitted. But that was—there was not an occasion in our interview in which Mr. McFarlane suggested that he had recommended that we provide arms.

Mr. LEON. And you have an independent recollection of that word "not" being included?

Mr. COOPER. Oh, yes.

Mr. LEON. And you have testified to that in your depositions previously before the committee's counsel?

Mr. COOPER. As well as before other bodies.

Mr. LEON. Fine.

Now, with regard to one further aspect of that interview, that afternoon, Mr. Cooper, you have testified to an aside between the Attorney General and Mr. McFarlane after the meeting took place, and that the Attorney General later shared with you the contents of which. And I believe you testified as to what it was that McFarlane said to the Attorney General, and you paraphrased it along the lines of his desire to help the President and to protect the interests of the President, or words to that effect.

I don't believe you testified as to what the Attorney General told you his reaction was, what he said to Mr. McFarlane after McFarlane said that to him?

Mr. COOPER. Perhaps, I didn't, but I do have an equally general recollection that the Attorney General reiterated at this point for Mr. McFarlane what he had opened our interview with, which was that the way to assist and protect the interests of the President in this matter is to be entirely forthcoming and to not engage in any activity that could be interpreted as a effort to conceal facts.

Mr. LEON. Now, the following morning when you interviewed Secretary Shultz together with the Attorney General, is that the first time you had met the Secretary personally?

Mr. COOPER. Yes, it was.

Mr. LEON. And that was over at the State Department, was it not, in his office?

Mr. COOPER. Yes.

Mr. LEON. I believe you testified as to what Secretary Shultz told the Attorney General and yourself with regard to Mr. McFarlane's statement to him as to the HAWK missiles. I don't recall you testifying as to what Secretary Shultz told you his reaction was to Mr. McFarlane upon learning that there were HAWK missiles about to be shipped from Israel to Iran.

Mr. COOPER. Secretary Shultz maintained then that he disapproved of the idea, and that he did not think it would work and that it was a bad idea. He registered his—registered his position, was my understanding, and that was that.

Mr. LEON. Did he register it with Mr. McFarlane alone, as far as you know?

Mr. COOPER. That is my understanding, yes.

Mr. LEON. And did he, the Secretary, give you and the Attorney General the impression that he believed at that time that this was a fait accompli?

Mr. COOPER. The transfer itself, I don't think he believed at that point was a fait accompli. I think he was being informed that the transfer was in the offing, perhaps, it was beyond recall, and he may well have had that impression, but he also stressed that he did not understand from the context of the statements in the meetings that he was being asked for approval on it, but rather being informed.

Mr. LEON. Now, with respect to the diversion memorandum and the informing of the Attorney General of the existence of that memorandum on Saturday morning, would you characterize the Attorney General's reaction to learning that—besides what he said—one of proceeding cautiously to determine the truth or falsity of the memorandum and where exactly it had gone?

Mr. COOPER. Well, first I don't think it was Saturday morning. I am pretty——

Mr. LEON. Saturday lunch.

Mr. COOPER. Saturday, early afternoon, lunch time. I have only a general recollection that—first I have already expressed my recollection of his reaction and his surprise, and I beyond that, I do recall him expressing a sense of very serious concern and worry and, obviously, the need to verify whether or not this event actually happened.

Mr. LEON. Do you think it would have been premature at that point for the Attorney General to change an internal investigation, which is what you were conducting at that point, into a criminal investigation, based upon a memorandum undated and unaddressed?

Mr. COOPER. Well, I don't know—can't image that that would have been something that was indicated or required at the moment. Whether it would have been—I have forgotten the formulation you used, but you know there was just—it didn't occur to me, and I must suspect it didn't even remotely occur to anybody that a criminal investigation of the West Wing of the White House be launched based upon that tentative information.

The first thing was to confirm with Mr. North whether or not the event had taken place. We obviously recognized that would be one of the most important elements of our conversation with Mr. North.

Mr. LEON. For that matter, did you see any—just on the existence of that memo alone, did you have any clear legal theory in your mind as to whether or not there would be any criminal consequences to such a memorandum?

Mr. COOPER. No, none at all although there were legal implications. We were—I was at least, I should say, sensitive to the fact or at least the great likelihood that there were legal implications for this.

I was familiar in a nodding way with the Boland Act, and what have you, but I think the Attorney General probably was more sensitive than I was to the potential legal implications at that moment, because he was more familiar, I am sure, with the Boland Act than I was.

Mr. LEON. When you met with Colonel North on Sunday afternoon, the following afternoon, you have already testified that he had made a joking or passing reference to your colleagues Reynolds and Richards with regard to having an attorney, did that issue of his having an attorney come up at all on Sunday afternoon?

Mr. COOPER. No.

Mr. LEON. Do you recall——

Mr. COOPER. Not to my recollection.

Mr. LEON. Do you recall any statement to the effect by Ollie North throughout that interview on Sunday afternoon, any statement to the effect, after being shown the diversion memo, any statement to the effect "That does this count, since you haven't given me my rights?"

Mr. COOPER. No. I do not recall any such statement to that effect.

Mr. LEON. Do you recall him making any reference to either wanting his rights so to speak, or not having gotten his rights?

Mr. COOPER. Nothing of that kind, even remotely resembling that kind of remark or reference was made, in my recollection.

Mr. LEON. And it is not included in the notes of that afternoon that you have reviewed; is it?

Mr. COOPER. No, it is—well, if it is I missed it. I don't think that it is. It is not in my recollection.

Mr. LEON. Now, with respect to your chronology, Exhibit 1, I believe you have it before you, I would like to solidify a date with regard to a date, an event you testified to earlier today.

If you turn your attention to your chronology on the 4th page, I believe it is—actually the 6th page. It has the number in the upper-right corner, J-7699?

Mr. COOPER. What is the date on that?

Mr. LEON. That is November 25th's events.

Mr. COOPER. Yes.

Mr. LEON. There is a reference in the chronology to a meeting on November 25 at 2:30 in the afternoon, a meeting with the Attorney General, yourself, Brad Reynolds, Steven Trott, Judge Webster, and Arnold Burns. Is that the meeting you were referring to earlier today as when the Attorney General assigned Mr. Burns the responsibility of securing the documents?

Mr. COOPER. Yes, it is, it is my recollection that that is when that directive was issued.

Mr. LEON. So that was on Tuesday the 25th?

Mr. COOPER. That is my best recollection.

Mr. LEON. And turning back one page, you have a reference to a meeting later that day at 5:45 to 7 o'clock, that was misplaced on November 24, with the Attorney General, Steven Trott, Bill Weld and others?

Mr. COOPER. That is correct.

Mr. LEON. Would that be the meeting you referred to in which Mr. Burns noted that he had not yet done what the Attorney General expected him to do?

Mr. **Cooper.** Well, yes, I think that is the meeting, although I note that my chronology doesn't reflect that Mr. Burns was there, but that is my best recollection.

Mr. **Leon.** It was clearly the same day, was it not?

Mr. **Cooper.** I can't say that—I can't accede to the term "clearly." It is my best recollection and it is reasonably confident, but not clear to me.

Mr. **Leon.** What was the Attorney General's reaction as you perceived it to learning that Mr. Burns had either misunderstood his orders or had failed to carry them out?

Mr. **Cooper.** I obviously feel awkward discussing this, but Mr. Burns was embarrassed, and he felt very badly because the Attorney General was—he exhibited a rare flash of irritation at that. And Mr. Burns immediately exited to accomplish the task.

Mr. **Leon.** Now, focusing back on the events of the weekend, did you at any time or any members of the investigation team have any reason to think that the diversion memorandum or any other documents that you reviewed were about to be or were in jeopardy of being shredded, altered or destroyed in any way, shape, or form?

Mr. **Cooper.** We had no basis at all. I entertained no suspicion of that.

Mr. **Leon.** Was it ever discussed even as a possibility among the four of you?

Mr. **Cooper.** You know, it is my vague recollection that there was some joking between us or at least perhaps me and John Richardson or Brad, not to the effect that there were documents being shredded, but perhaps that the documents had been examined or were incomplete in their production. But as I say, we did not have any basis for suspicion of that fact and entertained no idea of any such activity.

Mr. **Leon.** Fine. I place before you a copy of a transcript that is unclassified of Judge Sofaer, referred to earlier in your testimony today. I would like you to take that so you could follow along with me.

This is a transcript of a deposition taken on June 18. Have you ever seen this before today?

Mr. **Cooper.** This deposition transcript, no, I have not.

Mr. **Leon.** I would like to direct your attention to pages 69 to 70, which contain a reference in Judge Sofaer's testimony to a conversation between you and him on Sunday evening the 23d. If I direct your attention to line 14, I would like to read that into the record if you care to follow along, with regard to Judge Sofaer's account of his conversation with you that evening, and then ask you if this comports with your recollection of that event.

Answer by Judge Sofaer: "Yes, November 23d, I was interested in knowing where the investigation stood, and Cooper was interested in seeing the notes. So we were on the phone together. I don't know who called, but we were probably calling each other. He said, 'Have you arranged to make sure that I can get to see the notes?' And I said, 'don't worry. I will see to it.'"

The notes he referred to are Charles Hill's notes, the Deputy Assistant to the Secretary of State, are they not?

Mr. **Cooper.** I am certain that is true.

Mr. **Leon.** Picking it back up on line 20.

> How did it go with the Secretary, and how is it going generally?' He was exhausted. I could tell from his voice. It was late at night on Sunday, and he said 'it's just a real mess' and that they had found out a lot of things, and he asked me—he mentioned that I had mentioned earlier that I was concerned about a surplus of funds.
>
> *Question:* How did he know that?
>
> Answer: I had mentioned it to him.
>
> *Question:* To Cooper?
>
> Answer: Sure. And he said, 'How did you know about that? What had led you to that?' And I explained to him that I just thought there was a spread, that cost price and sale price might be very different. He didn't say anything, but he led me to believe that that might be significant in the story. He did not explain to me what had happened.
>
> *Question:* Cooper didn't tell you on the 23d that the day before representatives of the Attorney General had found the so-called diversion evidence?
>
> Answer: No, he didn't at that time. I told him that, at a minimum, I was scared that Southern Air Transport had been given a lot of money for its arms shipments to the Middle East to subsidize it, in effect, for doing the work it was doing in Central America for the FDN.
>
> *Question:* But these were concerns that you were generating based on inferences. You at that time knew nothing about the fact of any diversion from the Iran program to Contras or elsewhere.
>
> Answer: Not until the Attorney General's press conference.
>
> *Question:* The 25th of November?
>
> Answer: Yes.

Having reviewed that, Mr. Cooper, does that sound consistent with your recollection of your telephone conversation with Judge Sofaer on the evening of the 23d?

Mr. Cooper. It sounds remarkably familiar in fact.

Mr. Leon. He comments in his transcript that you sounded exhausted on that evening. Were you?

Mr. Cooper. Yes, I was.

Mr. Leon. It had been a strenuous few days before that, or weeks?

Mr. Cooper. Yes, it had.

Mr. Leon. There had been a lot of firsts for you during that time period; the first meeting with Mr. Poindexter, Mr. Casey, Mr. Shultz; the first time you had ever seen a Finding; your first exposure to a lot of documents that you had never seen before at the NSC; is that correct?

Mr. Cooper. That is true.

Mr. Leon. Was this the first time you had ever been involved in an investigation of this kind?

Mr. Cooper. Of this kind, yes.

Mr. Leon. Would you say that was a baptism by fire?

Mr. Cooper. I would not quarrel with that characterization.

Mr. Leon. Would you say that the hours had been very long and arduous?

Mr. Cooper. I would consider that an understatement.

Mr. Leon. That it was a complex set of events?

Mr. Cooper. That is quite true.

Mr. Leon. Would you say it was a little bit like navigating down an unknown river in a small boat where there are new twists and turns around each bend and the pace of the river kept escalating as you went along?

Mr. Cooper. All of those things sound quite descriptive and accurate to me.

Mr. Leon. Let's go over some of those facts that were revealed to you in a very short period of time. On the 17th, up to that point, the 17th, your investigation was just into the HAWK shipments, was it not, the pre-January events?

Mr. COOPER. The pre-January events, right. September and November.

Mr. LEON. On the 17th was the first time you learned of the pre-January events when you got the chronology?

Mr. COOPER. Yes, it was.

Mr. LEON. On the 19th, the President had a press conference where there was an error that you brought to the attention of the White House staff, did you not?

Mr. COOPER. That is correct. The President's press conference was, I am certain all will recall, one in which the President apparently was not very well briefed by his staff. That was certainly my conclusion; that was the conclusion and very serious concern of the Attorney General.

Mr. LEON. And the Attorney General was so concerned about it that he made it a fact to be there the next day to ensure that the testimony that was anticipated on Friday next would be consistent and factually accurate?

Mr. COOPER. That was part of his motivation.

Mr. LEON. And later that afternoon you came—it came to your attention not only 2 days after learning about the pre-January events, for the first time, you learned about a major conflict between Cabinet officers, did you not?

Mr. COOPER. Yes.

Mr. LEON. That was a major revelation and a major new concern, was it not?

Mr. COOPER. Yes, it was indeed.

Mr. LEON. And the next afternoon after the President gave you the green light to conduct an internal investigation, and you only had 72 hours to do it in, you had the testimony of Mr. McFarlane to you that you yourself said raised serious questions of credibility, and that was a major concern, was it not, that escalated the pace of the events?

Mr. COOPER. It did.

Mr. LEON. And the lunch the very next day, now only 3 days into his, you had another major revelation of an even greater proportion. I think you once described it as a nuclear type of problem.

Mr. COOPER. It had that potential.

Mr. LEON. Now you had only 48 hours to resolve all of these matters to report to the President in the next 2 days.

Mr. COOPER. At this point I became quite seriously doubtful that we could resolve these matters in that period of time.

Mr. LEON. The very next day you had an interview with Colonel North in which he confirmed many of the fears that you recognized the preceding day when that bomb shell exploded at lunch, did he not?

Mr. COOPER. Yes.

Mr. LEON. Raising serious questions with regard to high government officials surrounding the President?

Mr. COOPER. Yes.

Mr. LEON. I go through these points because I want to give you an opportunity to state, as I close now, some sense of context in which these events were transpiring and how you felt, because there will be Monday morning quarterbacking, I'm sure, by historians for years to come as to these events, and your participation, and other people's participation, in them.

The Attorney General was at the helm of the boat and you were at his side, and I think it is important you have the opportunity to express some sense to this committee as to what it was like to be in the middle of that very fast flowing set of events.

Why don't you take that opportunity?

Mr. **Cooper**. You are most kind to afford it to me. However, out of respect for the time of this committee, I would simply say that I do believe that the flavor for the moment, so to speak, that you have really just provided is quite accurate and throughout this period. I think we all acted with a sense of grave urgency and urgency that seemed to become graver and graver with each passing interview, with each passing moment, and I think we acted with a very serious concern about the events that would undoubtedly follow in train, as they certainly have followed in train and the period that our country and the American people would go through in consequence of it.

Beyond that, I really have little more to say about it.

Mr. **Leon**. It certainly wasn't an experience you expected to have when you were confirmed as Assistant Attorney General by the Senate a little over a year ago, was it?

Mr. **Cooper**. No, I didn't expect any such experience as this.

Mr. **Leon**. Is it your testimony that you did your best at every stage in that process?

Mr. **Cooper**. Yes, sir.

Mr. **Leon**. No further questions, Mr. Chairman.

Chairman **Inouye**. Mr. Kaplan.

Mr. **Kaplan**. I am told I will get a medal if I limit my questioning to under 10 minutes. Since I have never received a medal from the Congress or from the Department of Justice, I will do my best to meet that challenge.

Mr. Cooper, I direct your attention to a meeting you had with Thomas Green, an attorney in Washington, on Monday, November 24.

Mr. **Cooper**. Yes, sir.

Mr. **Kaplan**. How did that meeting come about?

Mr. **Cooper**. The meeting was set up by Mr. Green, who contacted Brad Reynolds and asked if he could come in and talk with him about the Iran Initiative. I think he contacted him Monday morning, or something like that.

Mr. **Kaplan**. To your knowledge, why did Mr. Green contact Brad Reynolds?

Mr. **Cooper**. He contacted him because at least he represented he wanted to give us some information that it was important for us to have.

Mr. **Kaplan**. Did Mr. Green know Mr. Reynolds or did Mr. Reynolds know Mr. Green prior to that morning conversation?

Mr. **Cooper**. Yes. They were both and are D.C. lawyers. They had litigated against each other, as I understand it, and litigated on the same side as well, so they were well acquainted with each other. They had, as I understood it, they had high professional personal regard for one another.

Mr. KAPLAN. Did Green say how he knew that the Justice Department was conducting a factfinding inquiry into the Iranian arms initiative?

Mr. COOPER. In his meeting with Mr. Reynolds on Monday?

Mr. KAPLAN. In the discussion with Mr. Reynolds or in the meeting with you later that day.

Mr. COOPER. I don't know what else may have transpired in the discussion with Mr. Reynolds over the telephone—other than what I've made known. In terms of the meeting, I attended the meeting that did ensue on Monday, and I don't recall him stating specifically anything that answered your question, but there were many many references that—it was quite obvious that he had talked with Colonel North since the time we had, and we had spoken with him the evening before, and it was also clear that he indicated he had been talking with North and Secord for a period of time.

Mr. KAPLAN. When did the meeting actually occur?

Mr. COOPER. It was Monday, as I recall, Monday at—Monday, according to my chronology, and this squares with my memory, 2:00 o'clock, to in the neighborhood of 3:15.

Mr. KAPLAN. Did the meeting take place at the Department of Justice?

Mr. COOPER. Yes, it did.

Mr. KAPLAN. Who was present at the meeting?

Mr. COOPER. I was, Mr. Green, and Mr. Reynolds.

Mr. KAPLAN. Did Green say who, if anybody, he was representing in connection with that meeting?

Mr. COOPER. He opened his presentation with a statement that he represents or represented North and Secord. At that point, however—and he wanted to make it clear to us that he was not there in the capacity of a lawyer representing a client. And, in fact, he was rather cagey—that is my word—but it was just not clear to me exactly who it was that he did represent as a lawyer, if anybody.

But by the same token, it became clear to me he had been discussing this matter with at least North and Secord and probably Mr. Hakim as well. In fact, I felt certain and received information at that time that he had discussed that matter with Mr. Hakim, or at least that appeared clear to me. So that is about what the exchange was on his status.

Mr. KAPLAN. Is it fair to say, then, that it was at best unclear whether he was representing anybody during that meeting and possibly he was appearing as a legal representative of no one at all?

Mr. COOPER. Well, it was clear to me that he was not there as a lawyer to a client. He might have been at the time he was there representing people, but on that I was unclear. But it was clear that he was not there as a lawyer representing a client. He wanted to make that clear to me.

Mr. KAPLAN. Can we take that explanation as a clarification of your handwritten notes of the meeting that appear as exhibit CJC-19?

Mr. COOPER. Yes, you may.

Mr. KAPLAN. Can you describe for us the substance of the meeting?

Mr. COOPER. Well, again, I would—I have little from memory that supplements my notes, although the exchange we just had does, but Mr. Green presented an understanding of the Contra diversion that was at odds with the one that we had received from Colonel North, and he opened his discussion of that element of it by saying that Colonel North is the ultimate Marine, and he wants to step forward and take the spears in his own chest. I think that is the formulation he used. It sticks in my mind. But that it is important for us to know that there is another, little different version of this whole matter.

Mr. KAPLAN. And was there any resolution to the meeting? How did you leave things after Green went through an explanation of his knowledge of the diversion and of the participation of North, Secord, and Hakim as evidenced by your notes?

Mr. COOPER. There was—the conclusion of it, at least on this part, was along the lines that this matter, if made public, this Contra element of it all, would be—there could be lives lost, and it was—he expressed an earnest hope that it would not be necessary to make it public.

Mr. KAPLAN. Did you or Mr. Reynolds make any representations to Mr. Green in that regard?

Mr. COOPER. The only—there was an understanding reached. We certainly did not respond one way or another to his—to that point. But Brad did assure Mr. Green, as I recall, that he would do him the courtesy of letting him know prior to the time that the matter was made public.

Mr. KAPLAN. What was done by you or Mr. Reynolds with the information that Mr. Green conveyed to you during that meeting Monday afternoon?

Mr. COOPER. We outlined it to the Attorney General and probably to others in the room. I don't remember who was gathered on that occasion, but we did—I do recall in the Attorney General's office outlining the alternative version.

Mr. KAPLAN. Were any recommendations made to the Attorney General on the basis of the information you received from Green?

Mr. COOPER. I don't—well, I don't recall any, none in particular. You might be able to refresh my memory, however.

Mr. KAPLAN. Do you know whether Mr. Reynolds did, in fact, call Mr. Green prior to the disclosure of the diversion on Tuesday, November 25?

Mr. COOPER. No, he didn't.

Mr. KAPLAN. He did not?

Mr. COOPER. Right.

Mr. KAPLAN. Are you aware of any further meetings between Justice Department officials and Mr. Green relating to the matters at hand in these hearings?

Mr. COOPER. Yes, I understand that Mr. Reynolds met again with Mr. Green and someone else from the Justice Department, some few days later. I don't remember, however, I was not present, and I just don't know what transpired at that meeting.

Mr. KAPLAN. You don't know anything about what transpired at that meeting?

Mr. COOPER. I certainly don't recall what transpired.

Mr. KAPLAN. What about other phone conversations that you or Mr. Reynolds had or might have had with Mr. Green sometime in between the two meetings, were there any?

Mr. COOPER. There certainly were no phone conversations between me and Mr. Green, but—and I know of no conversations that Brad Reynolds had with Mr. Green.

Mr. KAPLAN. Now I am going to direct your attention to a telephone call that I believe you received from Mr. Casey on Monday or Tuesday, November 24 or 25. It is reflected in your notes as Tuesday evening in exhibit CJC-1. Do you actually recall which day that telephone call came?

Mr. COOPER. I can't improve my chronology on that. The chronology reflects some uncertainty even when I wrote this entry, and my memory hasn't improved on that.

Mr. KAPLAN. What time of day did the call come?

Mr. COOPER. It was in the evening. It was dark outside, that much I do remember.

Mr. KAPLAN. Where did he reach you?

Mr. COOPER. In my office.

Mr. KAPLAN. Was anyone else in your office at the time the call came in?

Mr. COOPER. Yes, there was.

Mr. KAPLAN. Who was that?

Mr. COOPER. At least John McGinnis. I don't know of anybody else, but it's possible somebody else was.

Mr. KAPLAN. Are you aware whether there was anyone else on Casey's side of the line?

Mr. COOPER. No, I have no knowledge of that.

Mr. KAPLAN. Was it common for Casey to call you directly?

Mr. COOPER. No, it was not.

Mr. KAPLAN. Before that evening, how many times had Mr. Casey called you directly?

Mr. COOPER. I had never received a telephone call from Mr. Casey.

Mr. KAPLAN. Can you describe the substance of the conversation you and Mr. Casey had?

Mr. COOPER. It was a very brief conversation. He asked me whether in all of this research we were doing if we had come across the name Lakeside Resources, at least that is what I understood him to say, and that is what I recalled him to say when I wrote this entry.

Mr. KAPLAN. And what was your response?

Mr. COOPER. My response was that that name has some vague familiarity to me, but I will be darned if I could tell him whether I had or not. It seemed familiar, but I couldn't place it.

Mr. KAPLAN. Was there any other conversation prior to him hanging up?

Mr. COOPER. I feel confident I said, "Well, this is something that"—I mean, "Why do you want to know that?" And I don't remember getting any edifying response.

Mr. KAPLAN. I think I have earned my medal. I have no further questions, Mr. Chairman. Mr. Cooper, thanks very much for your cooperation today.

Chairman INOUYE. Chairman Rodino.

Mr. RODINO. Thank you very much, Mr. Chairman.

Good afternoon, Mr. Cooper.

Mr. COOPER. Good afternoon, sir.

Mr. RODINO. Mr. Cooper, I am trying to settle in my mind the team that was put together by Attorney General Meese.

On the afternoon of November 21st, testifying before the Senate Committee, he stated that he had assembled a team of three lawyers who had experience with this type of matter to conduct the inquiry into the Iran arms sales matter.

Now, besides you, there was Assistant Attorney General Bradford Reynolds; is that correct?

Mr. COOPER. Yes.

Mr. RODINO. And Special Assistant to the Attorney General John Richardson; is that correct?

Mr. COOPER. Yes, sir.

Mr. RODINO. Now, all of you are not career employees; you are political employees, are you not?

Mr. COOPER. Yes, sir.

Mr. RODINO. And neither you nor Mr. Reynolds nor Mr. Richardson have worked in the Criminal Division; is that correct?

Mr. COOPER. Yes. I don't believe any of us has worked in the Criminal Division.

Mr. RODINO. As a matter of fact, Mr. Reynolds is the head of the Civil Rights Division; is that not correct?

Mr. COOPER. Yes, sir, he is.

Mr. RODINO. So is it fair to say that none of you really had any extensive experience investigating matters dealing with national security issues or had a particular expertise in the matter of Iran or Central America; isn't that fair to say?

Mr. COOPER. I think that is fair to say, but I don't think the inference to be drawn is fair because the question that we were trying to get at was, you know, who knew what on November.

Mr. RODINO. Did it turn out to be who knew what?

Mr. COOPER. No, it certainly didn't.

Mr. RODINO. As a matter of fact, I think it was Mr. Leon who characterized your experience here as a baptism by fire, your first experience, isn't that right, since you really haven't had any extensive investigative experience?

Mr. COOPER. Mr. Chairman, Chairman Rodino, I think that all four of us got a baptism of fire that weekend. I think the Attorney General, who is a very experienced criminal prosecutor, has never been through anything like we went through that weekend.

Mr. RODINO. Did it occur to you as a member of this team and seeing what was confronting you that maybe there might have been a need to develop a team that was more experienced in this kind of investigation or that it was necessary to turn it over to the Criminal Division or the FBI? I know that you stated that at some time you didn't feel, at least immediately, that that was the case, but this is the way it turned, didn't it?

Mr. COOPER. Well, yes. We did turn over this matter to an exceedingly large team of investigators and criminal lawyers.

Mr. RODINO. Did anyone raise any concerns about the composition of the inquiry team as to where the investigation was being conducted?

Mr. COOPER. Certainly I have seen reports of such concerns in the media. But do you mean——

Mr. RODINO. The Department, by individuals in the Department?

Mr. COOPER. Well, not to me, no. I can't say that some weren't raised.

Mr. RODINO. Someone else?

Mr. COOPER. Not to my knowledge, but I previously described, I guess, a sense that I got when this matter was turned over to criminal investigators.

Mr. RODINO. Well, let me ask, given the fact that there was a November 24 deadline and knowing that you had so many documents to review and the number of people who were involved that you had to contact and to interview, didn't you consider it a problem to be able to conduct this investigation with just a few of you?

Mr. COOPER. Well, I think we all appreciate this would be an arduous task with that team, but that was the team the Attorney General assembled and we felt like it was one that was adequate to accomplishing the task.

Mr. RODINO. You didn't have any concerns at that time about the fact that none of you really had any extensive investigative experience in a matter that turned out to be as complex as this and as serious as this?

Mr. COOPER. Actually, all of us had had experience interviewing witnesses. All of us had had reasonably extensive experience in that.

Mr. Reynolds certainly has a wealth of experience doing that. The Attorney General has vast experience. I even have some modest experience in terms of interviewing and deposing witnesses, so—I don't think Mr. Richardson does, but that is the task that I think we thought we had to deal with at the time.

It was much more like a civil discovery, that is how I looked at it, not criminal.

Mr. RODINO. Let's go on from there, Mr. Cooper.

Oliver North and John Poindexter were named as possible subjects of an independent counsel inquiry as a result of a request made by the House Judiciary Committee on October 17th, after the Hasenfus crash, and the Criminal Division had canvassed all the components of the Department of Justice regarding North's activities and they pursued an investigation at that time.

Did you talk with the prosecutors in that case?

Mr. COOPER. No, I don't believe that I did.

Mr. RODINO. Did you not consider it important to do so during the course of your inquiry?

Mr. COOPER. I don't think I was acquainted with these facts that you are suggesting. I am pretty confident I wasn't. I mean, I imagine that if all the components received a routine request for information along the lines that you have described, that my component, the Office of Legal Counsel did, but, you know, we typically would not have anything to contribute to such a matter.

Mr. RODINO. In other words, the fact that there had been an ongoing inquiry into North's activities, this was not a matter that you were supposed to be aware of in view of the fact that it did relate to North, and immediately following the Hasenfus crash?

Mr. COOPER. I don't think I was aware of that. I don't think I was aware of that or—I was aware of the Hasenfus controversy, I probably was aware that there was probably some Justice Department activity generated by it, but I don't recall having associated North with that.

Mr. RODINO. Well, let's reflect on what you have already testified to, and as I understand it on about November 17, 1986, prior to the weekend inquiry, you received two chronologies from the NSC about the Iranian arms sales; isn't that correct?

Mr. COOPER. We did receive at least two chronologies, yes, sir, ultimately.

Mr. RODINO. You did state that you were troubled about the scarcity of information regarding the HAWK shipments; isn't that correct?

Mr. COOPER. Particularly—well, I was nagging them for information prior to the time I got the chronology, yes, pretty consistently.

Mr. RODINO. And you called the Attorney General, as a matter of fact, and told him that prior involvement by the United States in Israeli shipments raised, as you said, potential legal problems; isn't that correct?

Mr. COOPER. I outlined some legal concerns that I had about that information.

Mr. RODINO. And on November 20, you met in Poindexter's office, along with Attorney General Meese and Poindexter himself, Casey, North, and others to review Casey's proposed testimony before the Senate, and at that time, North, who you said dominated the situation, insisted that there be a deletion of any reference to the CIA and insisted instead in inserting that there was no U.S. Government knowledge at all, no U.S. involvement.

Mr. COOPER. Yes, sir, that is true.

Mr. RODINO. Isn't that correct?

Mr. COOPER. That is true.

Mr. RODINO. And no one objected at that time concerning the North insertion and the North deletion; is that correct?

Mr. COOPER. That is correct.

Mr. RODINO. And immediately after that meeting, State Department counsel Sofaer told you that not only was the testimony wrong, but that he would resign if it wasn't changed. That is correct, isn't it?

Mr. COOPER. I actually—actually, that is not the formulation, but we had a telephone conversation where that is what I discerned from it. I testified previously as to that, yes, sir.

Mr. RODINO. Let's take it from there. At this time, following all of this, number one, you were troubled by the chronologies, you had advised the Attorney General of possible legal problems, and you had been confronted with apparently false draft testimony that you were aware of, and Sofaer did make these statements which you became aware of that he thought that the statement was false and that he would probably resign.

How did you view these events? Were they simple mistakes? Didn't they give you some concern? Wasn't this a red flag at this time?

Mr. COOPER. Yes, sir, indeed it was.

Mr. **Rodino**. And wasn't this the time then to call in the Criminal Division and others who might be better able to pursue this, or the FBI?

Mr. **Cooper**. No, sir, not in my opinion. I can't imagine——

Mr. **Rodino**. You mean regardless of the fact that all these things were occurring, and they gave you these concerns, you still did not feel it was appropriate or timely to do anything that might have immediately brought to the attention of the people what was really going on?

Mr. **Cooper**. It was not the time to call in the FBI, no, sir, in my opinion.

Mr. **Rodino**. Didn't you think that maybe all of this was going to be construed at some time as a possible coverup?

Mr. **Cooper**. Oh, that is exactly—that is precisely what I feared, and that is why I undertook measures to prevent the event from happening that I feared would happen, that inaccurate information would be shared with committees of this body.

But at that time, I didn't know which story was accurate; I had reason to place credibility in the State Department's story certainly when I learned of its source first, and secondly, when contemporaneous notes were alleged to exist that corroborated, but at that moment, the important thing was to prevent what was in the offing and to discover what the truth of the matter was.

There was no criminal activity. There was no hint of criminal activity. The question was, let us prevent an error from being made, and even worse, you know, the worst spin you could put on it was that there was going to be a knowing error made with respect to the representations to Congress.

But the important thing was to prevent it and find out what the facts were. The notion that the FBI would have been sent into the White House at that point, I mean——

Mr. **Rodino**. What do you mean prevent it? What were you going to prevent?

Mr. **Cooper**. Going to prevent the Director of the Central Intelligence Agency from expressing and relating to the Senate Intelligence Committee and the House Intelligence Committee an understanding of the facts which we no longer had confidence was true, and had reason to believe it was not true.

That was the critical thing to deal with at the moment.

Mr. **Rodino**. Well, it still bothers me to think that with all that was going on at this time, talking about preventing something such as preventing false testimony from being actually produced before the Senate Committee, on the other hand, there was no concern on your part that what had already taken place was something that was serious enough to call in people who were equipped to do the investigating, people such as the FBI or others?

Mr. **Cooper**. Senator, the only thing that had taken place at that point—excuse me, Mr. Chairman, Chairman Rodino, the only thing that had taken place at that point was a draft testimony had been crafted which at worst contained an error in it which somebody knew to be an error.

Now——

Mr. **Rodino**. Are you saying that the North statement that was included was just an error?

Mr. COOPER. I am saying that the worst spin that I knew to put on this thing——

Mr. RODINO. You knew there wasn't——

Mr. COOPER. Somebody knew that the error was an error. That is what I am saying. I am not denying or saying that I didn't recognize the possibility, distinct possibility that those who had authored that statement knew or had reason to know that it was not accurate.

I fully appreciated that possibility.

Mr. RODINO. On November 23, Attorney General Meese, William Reynolds, Richardson and you interviewed North, and according to your testimony, North was surprised that the Attorney General had found a copy of the diversion memo, and North immediately asked the Attorney General if he found the cover memo.

I think when we talked about the cover memo a while ago, there was a question as to whether or not a cover memo existed. Why would not a cover memo exist if Colonel North called attention to it?

Mr. COOPER. I think it is very important to try to deal with this business about a cover memo, based upon some of the notes that Mr. Richardson took of our interview with North, notes which comport with my recollection of that event.

Mr. RODINO. My time is slowly eating up, so will you——

Mr. COOPER. Well, this is a very important point.

Mr. RODINO. I know it is.

Mr. COOPER. Those notes, I am sure the committee has them, but they comport my recollection, as I say, of the questioning of Colonel North on this point. The Attorney General very methodically asked him who knew about this diversion, who might be knowledgeable in the United States.

Mr. RODINO. Did he ask him at that time if there had been any documents which had been shredded or destroyed?

Mr. COOPER. No, no, there was no conversation about shredding or destroying documents.

Mr. RODINO. There was no need to ask that question either?

Mr. COOPER. I had no basis upon which to ask the man that question.

Mr. RODINO. But you were conducting an——

Mr. COOPER. In fact——

Mr. RODINO. —conducting an inquiry, Mr. Cooper, which was a serious inquiry, and this is the reason why I emphasize the fact that you, the three of you who were conducting this inquiry, with all due respect to your ability as a lawyer, but none of you had that professionalism, hadn't been in the criminal division, hadn't been career employees, and certainly, while we don't want to draw any inferences, but you were political appointees, and as such, were conducting this kind of an investigation which was a very serious investigation, in which all of us continue to ask questions about the Presidency's knowledge, and it would seem to me that the investigation would have been better served if it had been conducted completely comprehensively.

Mr. COOPER. I believe we conducted the investigation in the circumstances, and based on the information we had, as comprehensively as we could.

Mr. Rodino. Is that why all of these new revelations come to attention of this committee now, which your inquiry never revealed?

Mr. Cooper. This committee has been impaneled for many weeks. It has investigators and extraordinarily skilled staff combing the country.

Its deliberations have been patient and thoroughgoing. It has not confined itself to a weekend to discover all the facts relating to this matter. I am sure that all of the facts——

Mr. Rodino. Maybe it shouldn't have been a weekend investigation then, Mr. Cooper.

Mr. Cooper. My reference earlier to the need to disclose the Contra diversion put the end point on our investigation.

But I would like to return, if I may, Congressman Rodino——

Mr. Rodino. If the chairman will allow. My time is up.

Chairman Inouye. The witness may respond.

Mr. Cooper. Thank you very much, Mr. Chairman.

As I mentioned earlier, the Attorney General in his examination of Mr. North, and his questioning of Mr. North, very deliberatively attempted to discern who might know of this Contra diversion of the U.S. Government, by either word of mouth, or by virtue of documents which revealed the existence of Contra diversion.

And after concluding that Mr. North had discussed the matter with no one other that McFarlane and Poindexter, the Attorney General asked the questions relating to where documents might be located that would reflect this, and one thing that was unclear in our minds, and which needed to be established, was where this memo went, if anywhere. The memo, by the way, was a draft.

It had hand strike-throughs on it. I would not expect to find a cover memo on a document of that kind, though it might certainly happen.

But according to Mr. Richardson's note, and according to my memory, the Attorney General asked questions like, if the President OK's something, OK's a proposal in a memorandum of this kind, a copy of that would get into the working documents, the working files of the NSC, wouldn't it?

And North indicated, yes, that it would.

He asked if the President, if RR approved it, you would have it, you have have a copy of this.

The answer was, yes, he doesn't think that it was.

I think it is at that moment, at that point in which Mr. North said is there a cover memo with that document?

I think that is when he said it.

That is all I can tell you.

The Attorney General continues, are there other files that it could be in to verify that it didn't go forward?

That is where Mr. North suggests, he will check, but he did not discern any information beyond that with respect to any cover memos or anything.

But with respect to the destruction of documents, the document we had was the best evidence they had not been destroying documents.

Still you know and I know that documents were destroyed, they were being shredded. They were shredded before we ever met with Colonel North, it now appears.

Mr. Rodino. Those questions were never asked?

Mr. Cooper. Well, that is true. That is true.

Chairman Inouye. Mr. McCollum.

Mr. McCollum. Thank you very much, Mr. Chairman.

Mr. Cooper, I want to clarify a couple of things with you before I ask some specific different questions. You got involved, according to your testimony, for the first time at the request of Attorney General Meese on November 7, 1986, is that correct?

Mr. Cooper. Yes, sir.

Mr. McCollum. And at that time, the Attorney General was interested in exploring the facts around the whole affair as was known in the press at that time; he had not actually gotten charged by the President with a specific investigation, had he?

Mr. Cooper. No, not to my—no, he hadn't.

Mr. McCollum. Now your specific task, based on the Attorney General's instructions on November 7, was what?

Mr. Cooper. On November 7, just to basically prepare myself to be involved in this matter, prepare myself to examine legal issues.

Mr. McCollum. So you started to slowly look into these things and ask questions and get involved and bring yourself up to speed, and then several things happened, and on November 20, we went to this meeting with the Attorney General on the Casey testimony, but it wasn't until the morning after that, Friday morning, the 21st of November, that the President actually charged the Attorney General with an investigation of some sort, am I correct in that?

Mr. Cooper. Yes, sir, that is true.

Mr. McCollum. And at that point in time, was there any change in your task that the Attorney General had given you? Did you do anything different? Did he tell you to do anything different from what you were doing? Did something change on that Friday, November 21?

Mr. Cooper. Yes, it did change.

Mr. McCollum. What?

Mr. Cooper. I became enlisted by the Attorney General as a part of the small group of people that he wanted to assist him in performing his task.

Mr. McCollum. Was there a deadline on this task?

Mr. Cooper. Yes, sir.

Mr. McCollum. What was the task at that point that this small group had?

Mr. Cooper. To try to get our arms around the Iranian Initiative particularly insofar as it related to pre-Finding matters, that is pre-January 17 matters, and iron out the discrepancies and wrinkles that we discerned and find out who knew what and who was accurate on this.

Mr. McCollum. As you got in this, as we found out in about 4 days, it is pretty difficult to do this. It has taken this committee months to get our arms around this thing at this point. You found out it was pretty tough in a few days to get your arms around it, didn't you?

Mr. Cooper. It is indeed, yes, sir.

Mr. McCollum. You were not, as you said, conducting a criminal investigation at any point until you started to—in effect, you never were conducting a criminal investigation yourself, were you?

Mr. Cooper. That is right. I even, I guess I prefer the word fact-Finding to an investigation, but it is really a matter of semantics.

Mr. McCollum. What was the deadline you were working under?

Mr. Cooper. The President had requested the Attorney General to report back to him, if at all possible, by Monday, Monday for the NSPG meeting, and that was 2:00 o'clock.

Mr. McCollum. So you really only had about 3 days to do all this in, right?

Mr. Cooper. That is true.

Mr. McCollum. OK.

Now, at any time, at any time, did Robert McFarlane, Admiral Poindexter, Colonel North, or anyone else tell you or say in your presence that prior to November 20, 1986 they had discussed with President Reagan or Donald Regan the diversion of the Iranian arms sales moneys to the benefit of the Contras?

Mr. Cooper. No, sir.

Mr. McCollum. All right. Do you have any reason to believe or suspect today that before November 20, 1986 that Donald Regan knew about the diversion of the Iranian arms sales money for the benefit of the Contras?

Mr. Cooper. I have no reason to suspect that.

Mr. McCollum. From the PROF notes that you have examined and were discussing earlier today on direct examination and from the revelations that have come to your attention since November of last year, it is pretty clear, isn't it, Mr. Cooper, that at the time of the November 20 meeting regarding Director Casey's testimony that you have said you attended with Attorney General Meese that Colonel North and Admiral Poindexter and Mr. McFarlane and Director Casey all knew that there was U.S. involvement in the 1985 HAWK shipment to Iran? It is clear, isn't it?

Mr. Cooper. I——

Mr. McCollum. They all knew that at that time?

Mr. Cooper. I am not sure I can say that. I think it is pretty darn clear that North did and Poindexter did, although at the time on that November 20, their nonreaction to Mr. North's changes in the testimony was entirely unremarkable to me. I had been given to understand, and I think it is true, that Mr. Casey was out of the country during November, during the November HAWKs episode or during that timeframe and didn't have any personal knowledge of it.

Mr. McCollum. Let's just assume in this case it is Poindexter, North, and McFarlane. Let's just leave Casey out of it. We don't know what he knew.

Mr. Cooper. It is pretty clear that——

Mr. McCollum. Those three did know, after all McFarlane, in his case Sofaer has already said, and you got involved in this at the time that it was McFarlane who told Shultz about it.

Mr. Cooper. That is right.

Mr. McCollum. So those three knew and the evidence is very clear. It is clear to me. I think it is clear that Casey knew, too. I am trying to be as objective as I can listening for weeks and weeks on this, and I am still holding back judgment on a lot of things, but it is pretty clear that they knew this was an involvement by the United States on that date.

They knew that at the time. It seems it is also equally clear that there were missiles parts involved. It wasn't just a question of there being some oil-drilling equipment as they said. They all knew it was missile parts, didn't they?

Mr. COOPER. And that is certainly the view that I have come to and you know a lot more about this than I do now.

Mr. MCCOLLUM. So when Colonel North told Attorney General Meese on November 20, in that meeting regarding the Casey testimony, that there was no one in the U.S. Government in November 1985 who was aware that there was a HAWKs missile shipment going into Iran, and they didn't find out about that until January after that, he was lying, wasn't he? Isn't that a fact?

Isn't it also a fact that when Admiral Poindexter and Mr. McFarlane and Director Casey—well, at least I think it was so with Casey, but certainly when Admiral Poindexter and Mr. McFarlane were silent and they didn't refute that fact in the Attorney General's presence on November 20, and let this testimony apparently be put that way with regard to the HAWK missiles and the lack of awareness, they, too, were lying, weren't they?

Mr. COOPER. I believe so.

Mr. MCCOLLUM. And after the Attorney General was formally charged with the investigation the next morning and he spoke with Mr. McFarlane, had a meeting with him and Mr. McFarlane told the Attorney General he didn't know there were missile parts in the November shipment until he came back into the picture in May 1986, he was lying then, too, wasn't he?

Mr. COOPER. It appears that he was.

Mr. MCCOLLUM. And when Colonel North told the Attorney General on Sunday the 23d of November that he had first thought that the shipment of the 1985 things over to Iran on that plane load were oil-drilling equipment and he didn't learn until later from General Secord that there were missile parts, he was lying even on Sunday when he said that, wasn't he?

Mr. COOPER. Yes, I believe he was.

Mr. MCCOLLUM. So the point of it all is that we had a group of people, at least three and possibly four—Colonel North, Admiral Poindexter, Mr. McFarlane, and probably Director Casey, who were deliberately deceiving and lying to the Attorney General of the United States about the involvement of the United States on the shipment of these missiles in November 1985; isn't that a fact?

Mr. COOPER. I think it is.

Mr. MCCOLLUM. So if we want to call it a coverup or whatever it is, we can still say for sure that we had one Attorney General who got pretty darn mad when he began to realize this fact as you were revealing certain portions of this to him, didn't he?

Mr. COOPER. He, yes, he was.

Mr. MCCOLLUM. And as far as I can tell up to this point in the testimony we have had before us, he is the first person in the administration, of any of the Cabinet members or high-level officials, who went in to the President of the United States and said, "Mr. President, you got a real problem, and we need to have a really thoroughgoing investigation." Isn't that a fact, too, as far as you know?

Mr. COOPER. Yes, sir. He certainly did do that.

Mr. MCCOLLUM. I am concerned about a few details that seems to me those points needed to be made. I must say in all candor that I am deeply disappointed in those gentlemen, who did the acts that they did and not being straightforward about this from the very beginning, right or wrong.

But I think we do need to clarify a few other things and some of the details that have not been up to this point in time. When the Attorney General first got involved in this question of Findings in January before all this, you know we are talking about November 1986 and investigations, and I want to move you back to January 1986.

When he first got involved and was asked to talk about Findings back then from what you learned of that affair and his involvement in January 1986, he was not told by anybody about a Presidential Finding or proposed Presidential Finding for shipments or activity with regard to Iran and the hostages before them, was he, back in November of 1985 or so?

Mr. COOPER. No.

Mr. MCCOLLUM. Or earlier?

Mr. COOPER. No.

Mr. MCCOLLUM. So if you want to trace this down, he was in fact indeed misled about that. You have had the exhibit that has been before you, no. 12. That was the Casey memoranda exhibit dealing with that particular proposed Finding, and at that particular time in that Finding, if he had been told about it, the Attorney General would have read that the particular involvement of the President was to sign a Finding on involved munitions, involved weapons.

The word, "munitions," is in your exhibit no. 12 in that proposed citing, but he was never told about that in January when he first was asked to look at the Findings question by the same people we are talking about in this case, in the November meetings, was he?

Mr. COOPER. No, sir, he was not.

Mr. MCCOLLUM. So we have a whole series running from November 1985, through November 1986, where at least three or four specific instances the Attorney General of the United States, our top legal officer, one of the closest men to the President of the United States was being misled and was not being fully informed, and yet was being called upon to make judgments and decisions.

I think that that in itself may well be a crime. If it is not a crime, it is certainly one of the highest acts of insubordination and one of the most treacherous things that has ever occurred to a President, it seems to me, in our history.

Let me ask you another question about something unrelated I want to follow-up a few details on. During this time you had a conversation, that is, November when you got involved with your portion of all of this, November 1986, again, you had a conversation with Assistant Secretary of Defense Armitage at some point, didn't you?

Mr. COOPER. I did.

Mr. MCCOLLUM. Did Mr. Armitage tell you that he knew about these Iranian arms transactions?

Mr. Cooper. I do not recall him having told me that.

Mr. McCollum. He did not tell you that he knew as early as December 1985?

Mr. Cooper. I don't believe that he did.

Mr. McCollum. I just wanted to clarify that on the record.

With respect to the investigation that you were undertaking, Bradford Reynolds' name has come up. He was the head of the Civil Rights Division, wasn't he?

Mr. Cooper. Yes, sir.

Mr. McCollum. The Civil Rights Division also has a criminal section in it, doesn't it?

Mr. Cooper. Yes, it does.

Mr. McCollum. So some suggested that perhaps your small team that had a short time to operate under didn't have the expertise on it of anybody knowing anything about criminal matters, and while that was not indeed your function, your function you've already told us was not to look at the criminal side of it, at least Mr. Reynolds did have a responsibility in the white collar criminal area. He did have a criminal investigatory background and was himself involved, and the Attorney General himself was a former prosecutor, wasn't he?

Mr. Cooper. Yes. The Attorney General certainly is a very experienced criminal prosecutor.

Mr. McCollum. So while we may have a lot of discussion about what people did or didn't know with regard to their abilities to handle looking into this matter, you had assisting you, in fact the Attorney General running this operation, people who were steeped in the experience of investigations, albeit that they were under a time constraint that turned out to be miserably slim.

Would you, if you had to go back and do it again, suggest to the Attorney General that the President's deadline of Monday was a little short, that he should have perhaps extended it?

Mr. Cooper. Certainly, I would now, but at the time that the President set the deadline, it did not seem impossible and at a minimum the President was entitled to have whatever information we had been able to collect confidently at such time as he required it.

But we wanted to give him as complete a picture as we could by that timeframe.

Mr. McCollum. As I recall, there was no real thought about doing any criminal investigation until after the night of Monday, the 24th I guess it is, of November. Am I correct? It just didn't enter anybody's head until after then?

Mr. Cooper. No, I think it started entering our heads on Monday.

Mr. McCollum. During the day?

Mr. Cooper. Yes. We were examining, I and Mr. McGinnis, my assistant on the matter, were combing the, what we thought would be the applicable criminal statutes. And based upon our subsequent conversations with the Criminal Division supervisors, Mr. Weld and Mr. Richards, we didn't do all that bad a job in identifying the statutes.

Mr. McCollum. You did that within 3 days of the President charging the Attorney General with doing some looking into this formally; is that right?

**Mr. COOPER.** All of this activity?

**Mr. McCOLLUM.** So as you testified, you were virtually taken out of the picture because it got turned over to the criminal side of this within a couple of days; is that right?

**Mr. COOPER.** I was out of the picture effectively Wednesday and not clamoring to get back in.

**Mr. McCOLLUM.** In fact, there was the turning of all this over to independent counsel, a special prosecutor, within a matter of a very few days after that?

**Mr. COOPER.** Not long thereafter, I think it was in the neighborhood of a week or so at least that we requested independent counsel and, of course, the appointment then took an additional period of time.

**Mr. McCOLLUM.** I have one curiosity question. The other day, Fawn Hall was testifying and she was asked who fired Colonel North. She didn't know.

Who gave him the word? She didn't know.

By any chance, do you know?

**Mr. COOPER.** Who fired Colonel North?

**Mr. McCOLLUM.** Yes.

**Mr. COOPER.** Ultimately the President, I guess.

**Mr. McCOLLUM.** You don't know who informed him——

**Mr. COOPER.** Who informed him of that—no, sir, I don't.

**Mr. McCOLLUM.** Do you know when he was informed of it?

**Mr. COOPER.** I vaguely recall a press account to the effect that he was informed of the fact when he learned from the Attorney General on the television.

**Mr. McCOLLUM.** Well, I am running out of my time, but I am very dedicated myself to details and I think you were obviously, too. Personally, my observations, listening to your testimony, indicates to me that we owe you a lot of gratitude for unearthing some of these things.

If it hadn't been for your persistence on the dates of the 20th and 21st in particular, the Attorney General might not have been aware of certain things, and this might have gone on a lot longer than it did, and I think the Nation owes you some thanks, Mr. Cooper, so thank you for being here today and thank you for doing what you did.

**Mr. COOPER.** Congressman McCollum, I truly appreciate that remark. It is my pleasure to be here to assist this committee.

**Chairman INOUYE.** Thank you, Congressman McCollum.

Senator Sarbanes?

**Mr. SARBANES.** Thank you, Mr. Chairman.

Mr. Cooper, what was it that the officials in the Department of Justice learned that precipitated the reference of this matter to the Criminal Division?

**Mr. COOPER.** We learned that there was potential criminal liability, we believed, relating to the diversion of the Contra diversion of moneys to the Contras, potential criminal liability.

**Mr. SARBANES.** Because of the fact of the diversion?

**Mr. COOPER.** Yes, sir.

**Mr. SARBANES.** When did you learn the fact of the diversion, on Sunday?

**Mr. COOPER.** Yes, sir, Sunday night.

Mr. **Sarbanes**. And when did you refer it to the Criminal Division?

Mr. **Cooper**. Tuesday.

Mr. **Sarbanes**. On Tuesday?

Mr. **Cooper**. Yes, sir.

Mr. **Sarbanes**. And when was the matter considered—I mean at the time you learned of the diversion is that when you began to consider the question of reference to the Criminal Division?

Mr. **Cooper**. That is when we began to consider in a very serious determined way the—if this meant—if this had criminal implications. The Boland Amendment obviously was uppermost in our minds.

That is not a criminal statute, but there are, of course, associated and general statutes of various kinds that might well be applicable to such activity, as we suspected might have happened here. The most important question in our minds was was this U.S. money.

And that is not an easy question, but we undertook to discern whether this was U.S. money, or whether there was substantial argument to that effect. We believed that there was a very substantial argument to the effect that it was, that is moneys that were generated, and that, therefore, any moneys that were not returned to the U.S. taxpayers should have been.

Mr. **Sarbanes**. And you began to consider these questions on Sunday after, you learned—actually you learned about the diversion before Sunday; did you not?

Mr. **Cooper**. We learned as early as Saturday at noon, at least I did, at lunch, of the possibility that a diversion took place, yes, sir.

Mr. **Sarbanes**. And it was the diversion then that raised in your mind the possibility of criminal matters; is that correct?

Mr. **Cooper**. Yes.

Mr. **Sarbanes**. You learned that on Saturday noon. The reference to the Criminal Division was made when on Tuesday?

Mr. **Cooper**. I think——

Mr. **Sarbanes**. I thought you said that your meeting was on Wednesday before they actually got drawn into the matter.

Mr. **Cooper**. That is when we collected—the criminal team had been put together, and collected with me and the others of us who had the information to share with them and the documents to give to them, and what have you.

Mr. **Sarbanes**. So on Saturday, you learned the fact that eventually after the passage of a few days was the basis on which to go to the Criminal Division; is that correct?

Mr. **Cooper**. I really don't think that is. We received the first evidence of that fact, and we became sadly convinced that, indeed, it was a fact Sunday night.

Mr. **Sarbanes**. When did the Attorney General give the order to secure the offices of Colonel North?

Mr. **Cooper**. I believe it was Tuesday at 2:00 to 2:30 meeting, as soon as he came back from the press conference we had a meeting.

Mr. **Sarbanes**. So that order was not given until Tuesday either, the order to secure the office?

Mr. **Cooper**. I think that is accurate, yes, sir.

Mr. **Sarbanes**. Why wasn't that done sooner just as a matter of prudence?

Mr. COOPER. I think the Attorney General ordered that an order be given to the White House Counsel to seal the NSC office at—contemporaneously with making his decision that the matter should be investigated criminally, but in any event——

Mr. SARBANES. You could give the order to secure on the basis of concern well prior to deciding that you had to go to the Criminal Division, could you not?

Mr. COOPER. Yes, I don't disagree that you could have.

Mr. SARBANES. When did members of your team go to North's office to look at records?

Mr. COOPER. Saturday morning.

Mr. SARBANES. And they went on the basis of the Attorney General having told Poindexter that they were coming over to look at records?

Mr. COOPER. Well, the Attorney General did tell Mr. Poindexter that we would be requiring access to the NSC documents related to this and they should be gathered and made available.

Mr. SARBANES. When did you tell him that, on Friday afternoon?

Mr. COOPER. That is my understanding, yes, sir.

Mr. SARBANES. And when do you understand that North—the North-Hall shredding party occurred with respect to North's documents?

Mr. COOPER. I hear it was Friday afternoon.

Mr. SARBANES. Or Friday evening—subsequent to the notification by the Attorney General to Poindexter that your people would be coming to look at documents; is that correct?

Mr. COOPER. That is my understanding.

Mr. SARBANES. Did you have any knowledge or involvement in any of these matters prior to November 7th, when the Attorney General, I gather, drew you aside after a management meeting, and enlisted you in looking into these matters?

Mr. COOPER. No, sir, I did not.

Mr. SARBANES. So this was your first contact with this matter?

Mr. COOPER. It is—yes, sir, it was.

Mr. SARBANES. Now, I take it you must be one of the youngest Assistant Attorneys General in the history of your division; are you not?

Mr. COOPER. I think that is probably accurate.

Mr. SARBANES. How did you find yourself then vetting the Casey statement to the Congress—as I see this thing, you have just been drawn into this matter, not having had much experience, any contact with any of these matters, and the next thing we know in very short order, on 20 November, at a meeting with Meese, Casey, Poindexter, and North reviewing Casey's statement.

How did that come about? In fact, I think you earlier in your testimony said, well, you were very deferential at that meeting. You said others weren't, but you said that you certainly were.

Mr. COOPER. Well, I was asked by the Attorney General to attend the meeting with him, and my understanding of my purpose there was—keep in mind, I had been looking at the legal issues, identifying the legal issues that had been raised in the media and otherwise been identified by my assistant and myself and had studied them.

I had previously—in fact, had done a very brief legal memorandum to the Attorney General on some issues that we had spotted—it was one of the exhibits—so my understanding of my purpose there was in case a legal issue came up, that my presence might be useful.

I was the least important member of that meeting. I was there just in case I could be useful.

Mr. SARBANES. Well, now, the problems with the Casey statement were the facts, was it not, in accurate statements?

Mr. COOPER. Certainly that was the problem that eventuated.

Mr. SARBANES. Then you went to the CIA the next morning, as I understand it, to review the final version of Casey's statement?

Mr. COOPER. Yes, sir.

Mr. SARBANES. So, in effect, you had become the point man to review the Casey statement; is that correct?

Mr. COOPER. I think that is putting it high. What I did was go out there just to—out of an abundance of caution, to ensure that the statements that were questionable, or the statement that was questionable was deleted or revised in an appropriate way.

Mr. SARBANES. I take it you were doing that at the instance of the Attorney General?

Mr. COOPER. Yes, sir, I was.

Mr. SARBANES. Did you perceive that the Attorney General had become the, in effect, shaper of the content of the Casey statement, that no statement would be made by Casey that didn't have the clearance of the Attorney General?

Mr. COOPER. No, sir, that was not the atmosphere or the reality. Certainly, no statement would be made by Mr. Casey or anyone else that was under a cloud of uncertainty regarding its accuracy.

Mr. SARBANES. Was the previous day the first time you had met Casey?

Mr. COOPER. I think that it was, yes, sir.

Mr. SARBANES. And then the meeting the next morning took place in his office, where you reviewed his statement?

Mr. COOPER. Yes, sir.

Mr. SARBANES. Just you and Casey?

Mr. COOPER. No. Mr. Doherty was there—there were two or three people that I did not recognize and know, and would not know today. There were people milling around.

Mr. SARBANES. Now, on the HAWKs, at what point did you learn that McFarlane had contacted the Prime Minister or the Foreign Minister of a country in order to expedite the movement of this shipment of material?

Mr. COOPER. I believe that this is what Mr. McFarlane—I am sure it is what Mr. McFarlane told us. Whether that is the first time I learned it or not, I have to think it was.

Mr. SARBANES. And at that time, it was being asserted that the material being moved was oil-drilling equipment; is that correct?

Mr. COOPER. Yes, sir.

Mr. SARBANES. Did it strike you as strange that the National Security Adviser should have to call the prime minister or the foreign minister of a country in order to get clearance to move oil-drilling equipment through?

Mr. COOPER. Well, it does seem strange, yes, sir.

Mr. **Sarbanes**. Was McFarlane asked about that when you and the Attorney General met with him? I mean, McFarlane is telling you, I gather from your testimony, that this is a shipment of oil-drilling equipment, and at the same time, McFarlane is telling you that he had to interrupt his activities at the summit, the Geneva summit, in order to make a telephone call to the officials of this country in order to help move this oil-drilling equipment through the country.

Now, did that strike you as passing strange?

Mr. **Cooper**. The account of the event was that the Israelis, through North essentially, were making requests upon McFarlane to use his good offices with the people in the third country regarding landing rights, and while one would not normally, I guess, think there will be trouble with landing a plane that has oil-drilling equipment on it, I don't recall having registered any impression at the moment that is particularly strange, but now that you mention it, it does seem strange.

Mr. **Sarbanes**. If you had known it was arms, you wouldn't have been at all surprised that they were having difficulty getting transit rights for the material, would you?

Mr. **Cooper**. I would not, and I believed it was arms.

Mr. **Sarbanes**. At the time?

Mr. **Cooper**. At the time.

Mr. **Sarbanes**. As you listened to McFarlane?

Mr. **Cooper**. As I listened to McFarlane.

Mr. **Sarbanes**. On what basis did you believe that?

Mr. **Cooper**. I just had come to the conclusion that there were—we know—nobody denied that there were arms on it. The only thing that people were denying was the state of their knowledge about what was on that plane. But I was not entirely confident that indeed the state of knowledge was to the effect that there was oil-drilling equipment on that shipment.

Mr. **Sarbanes**. This morning, in response to one question about knowledge of the diversion, you enumerated the people within the government, and then questions went outside of the government, and you mentioned Secord, and then you said, and a couple of other people.

And the question was put to you who, and you said Calero, and then you did not go on to name the other or others, and I wondered who they might be?

Mr. **Cooper**. Well, I named Mr. Nir. Mr. Nir is alleged—by North was alleged to have been the person who came up with the idea. Mr. Calero, Mr. Secord. The following day, I learned that there was Mr. Hakim who was knowledgeable. I also now recognize in the notes of the North interview, he suggested, in response to the Attorney General's question that the CIA was handling any of the money, the money that was going to the Contras, that he did not think that they know about it, but that some there may suspect.

So, that is all I can think of at the moment in terms of other individuals.

Mr. **Sarbanes**. When North was shown this diversion memo in the interview in the Attorney General's office, I take it on Sunday afternoon——

Mr. **Cooper**. Yes, sir.

Mr. **Sarbanes**. You said he showed some surprise.

Mr. **Cooper**. I don't think—my recollection is that the surprise he showed was at the Attorney General's oral reference to the $12 million or the money to the Nicaraguan Resistance, not to the handing him of the memo and recognition of North that we had got this memo.

My recollection on that may well be entirely wrong, but my recollection nonetheless is his surprise was shown at the question regarding the Contra diversion.

Mr. **Sarbanes**. Of course, North knew there was such a memo. He talked to McFarlane about it just that morning.

Mr. **Cooper**. Well, yes, he did know there was such a memo.

Mr. **Sarbanes**. I guess North's surprise was that you had the memo.

Mr. **Cooper**. I don't——

Mr. **Sarbanes**. You being the Attorney General's people—that you had this memo.

Mr. **Cooper**. Indeed, he may well have been surprised that we had the memo, but I do not recall him registering surprise when he saw the memo.

Mr. **Sarbanes**. Was he asked during that interview whether the diversion plan had been approved?

Mr. **Cooper**. Yes, he was.

Mr. **Sarbanes**. And what did he say?

Mr. **Cooper**. He said that he didn't know. He didn't think so. That he did not believe that the President had ever received the memo or any memo like it, or that the President had been briefed on this.

Mr. **Sarbanes**. Was he asked why—in that interview, why he had recommended changing the draft Casey testimony to falsely state that no one in the U.S. Government knew that the November 1985 shipment to Iran contained arms?

Mr. **Cooper**. No. He still maintained that he believed it was oil-drilling equipment at the time. And made the reference I think I identified earlier about a lie detector test. He did, however, concede that the portion of the testimony, one of the testimony drafts, and that the chronology—perhaps he just referred to the chronology—but the portion that described the return of the HAWKs as being an U.S.-inspired event was wrong, and that in truth, the Iranians were furious with the HAWKs that they had received.

They were not the ones that they needed. And so, he cleared that portion of the chronology. I don't recall him attempting to clear any others. And we were basically taking his evidence.

Mr. **Sarbanes**. Thank you, Mr. Chairman.

Chairman **Inouye**. Senator Hatch.

Mr. **Hatch**. Thank you, Mr. Chairman.

Mr. Cooper, as I understand it, your involvement in this matter was generally limited between November 7, and November 25, 1986, is that correct?

Mr. **Cooper**. Except for my legal involvement, that is my examining of legal issues, which did continue.

Mr. **Hatch**. So that is a grand total of about 18 days that you really had, other than your legal involvement, that you had an involvement in this——

Mr. **Cooper**. Yes, it is.

Mr. **Hatch**. —in what you would call the investigation.

During that time, it was basically your job to try to figure out what happened, I take it, is that correct?

Mr. **Cooper**. That is what we were attempting to do.

Mr. **Hatch**. From what you have told us, it appears to me that your effort the first week to 10 days went smoothly, there wasn't any real difficulty, and you had one of your deputies commence work on the legal opinion that was completed by November 13th or so, and then you met with Mr. Thompson and Admiral Poindexter at the White House, where you were shown a copy of a Presidential Finding which seemed to authorize the whole affair, is that correct?

Mr. **Cooper**. Yes, sir.

Mr. **Hatch**. As I have reviewed the legal analysis that was prepared under your signature, you concluded that the Iran initiative was not a violation of any laws, is that correct?

Mr. **Cooper**. As of November 13, yes, sir, we did conclude that it was proper.

Mr. **Hatch**. Turning your attention just briefly to that legal opinion, Mr. Cooper, can you tell us how you saw Section 501 of the National Security Act as applying to the facts of the Iran initiative?

Mr. **Cooper**. Well, Section 501 is the reporting requirement under the National Security Act for intelligence activities.

Mr. **Hatch**. It begins,

"To the extent consistent with all applicable authorities and duties, including those conferred by the Constitution upon the Executive and Legislative branches of government." Based on your study of those words, what do they mean?

Mr. **Cooper**. Well, those words, when one examines the legislative history, it seems clear that Congress and the President, at that point President Carter, were contesting over just exactly what the President's constitutional prerogatives are. President Carter maintained that the Constitution permitted him in extraordinary circumstances to withhold prior notice of an intelligence activity. And apparently there was disagreement along those lines, but the matter was compromised, and this is a reference, an explicit statutory reference to the constitutional prerogatives that are at play in the area of national security.

Mr. **Hatch**. Do you feel that under section 501 that the President, by virtue of his constitutional authority, was justified to withhold prior notice to Congress of the covert arms sales to Iran?

Mr. **Cooper**. I believe it was within his constitutional authority to do so, yes, sir.

Mr. **Hatch**. And his right to do that?

Mr. **Cooper**. And within the National Security Act.

Mr. **Hatch**. You continue to feel that your legal opinion, as reflected in exhibit CJC-2, is valid and that the Iran initiative, regardless of whether it was a good or bad idea, was at least justified as a matter of law?

Mr. **Cooper**. That legal opinion deals with post-Finding events, and yes, sir, my view has not changed with respect to the events that took place after the fact.

Mr. HATCH. So you feel it is still valid?

Mr. COOPER. Yes, sir.

Mr. HATCH. And that the actions were at least justified by law?

Mr. COOPER. That is correct.

Mr. HATCH. Whether they are right or wrong?

Mr. COOPER. I rendered no judgment on that in the opinion.

Mr. HATCH. After the first 10 days or so, it did appear that things got a little more complicated for you. On November 7, that is when you first received a copy of the National Security Council's chronology. You learned for the first time that there had been shipments of arms to Iran on two occasions prior to the January 17 Finding, is that correct?

Mr. COOPER. There had been two such shipments, according to those chronologies.

Mr. HATCH. Then on November 20, you ran into an even more difficult situation when you had Cabinet officers disagreeing as to whether or not U.S. Government officials knew about arms being involved in the November 1985, shipments. You had attended a meeting in the early afternoon, described here, on the 20th, regarding Mr. Casey's proposed testimony to the House and Senate Intelligence Committees, is that right?

Mr. COOPER. Yes, sir.

Mr. HATCH. At that meeting Admiral Poindexter and Mr. Casey and Colonel North all agreed that no one in the U.S. Government had known that the November 1985, shipments contained arms, is that right?

Mr. COOPER. Yes, sir.

Mr. HATCH. They all maintained that, even though they knew otherwise?

Mr. COOPER. North maintained it and nobody objected to it.

Mr. HATCH. Shortly after that meeting, you were told by Mr. Sofaer, legal counsel to the State Department, that Secretary Shultz recalled Mr. McFarlane telling him in November of 1985 that HAWK missiles had been involved in that shipment. As I recall, Mr. Shultz even had a contemporaneous note to that effect, is that correct?

Mr. COOPER. Yes, sir.

Mr. HATCH. So then after trying your level best to sort out the discrepancy, you decided that evening to get on the secure phone to Attorney General Meese, who was at West Point, and you basically asked him to get back and look this matter over, is that correct?

Mr. COOPER. Yes.

Mr. HATCH. Mr. Meese returned to Washington early the next morning, and you were informed later in the morning that Mr. Casey's testimony had deleted any reference to the fact that no U.S. Government official had been aware of arms involved in the November 1985, shipment, is that correct?

Mr. COOPER. Yes, sir.

Mr. HATCH. At that point in time, Mr. Cooper, did you have the feeling that figuring out what had happened may not be as easy as you had originally anticipated or thought?

Mr. COOPER. Yes, sir.

Mr. HATCH. That is when it started to dawn on you that this was a pretty big problem?

Mr. COOPER. It dawned on me before that.

Mr. HATCH. It certainly became enhanced with that knowledge, is that correct?

Mr. COOPER. Yes. By then I thought it was a very serious matter.

Mr. HATCH. Then the next day, Friday the 21st, Mr. Meese recommended to the President that there be a further, more expeditious factfinding effort undertaken, is that correct?

Mr. COOPER. He did.

Mr. HATCH. And there was reason for that at that point because of what your preliminary investigation had discovered. Then you spent the next 4 days working pretty well around the clock trying to put this thing together, is that right?

Mr. COOPER. Yes, sir, it is.

Mr. HATCH. It was during that period that the undated memorandum, which is referred to as the diversion-of-funds memorandum, was found in Colonel North's files, is that right, you found it?

Mr. COOPER. Saturday morning.

Mr. HATCH. Saturday morning, within that 4-day period, you were going around the clock trying to get a fix on this particular set of problems?

Mr. COOPER. Yes, sir.

Mr. HATCH. OK, what exactly was it about that memorandum that caused you and Mr. Meese to be so concerned? Did it appear illegal to you? Was it bad politically or just what was it that caused you to engage such great concern?

There is only one basic paragraph that says,

> Twelve million will be used to purchase critically needed supplies for the Nicaraguan Democratic Resistance Forces. This material is essential to cover shortages in resistance inventories resulting from their current offenses and Sandinista counterattacks and to bridge the period between now and when congressionally approved lethal assistance beyond the $25 million in defensive arms can be delivered.

So what caused you to be alarmed?

Mr. COOPER. I think we recognized potential legal implications of that information if it proved true, and certain political implications.

Mr. HATCH. Was there a feeling among your investigating team that discovery of that memorandum placed an urgency on the situation that really had not been there before?

Mr. COOPER. It—I think it intensified the urgency although you know we were quite urgent about clearing up the pre-Finding matters.

Mr. HATCH. You were at that point of time it seems to me in what I think was a very unique position because you had the opportunity to call Colonel North and interview him at that time without his knowing that you knew about the memorandum.

You had the advantage of hitting him cold and to ask him if the President knew about the diversion and as I understand your testimony you have just given in response to Senator Sarbanes, you did ask him that question and again, repeat, what did Colonel North say?

Mr. COOPER. That indeed the diversion had taken place.

Mr. HATCH. What did he say with regard to whether the President knew about it?

Mr. **Cooper**. Oh, he said he did not think so, that the President—certainly the matter had never been discussed with the President while he was in the room and it was his belief and knowledge that the only people in the U.S. Government who knew about this matter in the USG were McFarlane, Poindexter and himself.

Mr. **Hatch**. Did he hesitate in answering that question?

Mr. **Cooper**. No.

Mr. **Hatch**. Did he——

Mr. **Cooper**. I don't recall any hesitation.

Mr. **Hatch**. Was there any indication to your mind at that particular time to your vision that he wasn't telling the truth?

Mr. **Cooper**. I did not disbelieve him on that.

Mr. **Hatch**. In other words, you believed what he said?

Mr. **Cooper**. Yes, I did.

Mr. **Hatch**. In your meeting with Tom Green, the attorney on Monday the 24th, what is it you understood that Mr. Green was asking you to do?

Mr. **Cooper**. To receive from him some additional facts, facts that were very important that we needed to, I guess, stir into the mix here.

Mr. **Hatch**. Did Mr. Green ask you to refrain from going public with the details of the operation until after General Secord and Colonel North and Mr. Hakim had a chance to tell you the full story?

Mr. **Cooper**. He may well have asked that. My recollection is that he asked us not to go public at all, but at a minimum to accord him some notice prior to the time we were going public.

Mr. **Hatch**. Why was it then decided to go public with it in a press conference on the 25th? Give us the reasons for that.

Mr. **Cooper**. Well, once this matter was shared on Monday by virtue of the Attorney General's questions of other individuals, including the President, regarding their knowledge, the matter accelerated substantially and it took me really quite by surprise on Tuesday to be called by the Attorney General and begin the course of events that ultimately led to the news conference.

I didn't realize that the matter was going to be made public at that time notwithstanding the fact that all of us realized it had to be made public promptly, very promptly.

Mr. **Hatch**. I see, in hindsight, Mr. Cooper, do you feel it was a good idea to give the National Security Council Staff a full day's notice really that Colonel North's files would be reviewed?

Mr. **Cooper**. It obviously was not.

Mr. **Hatch**. It seems to me that was the mistake that was made.

Mr. **Cooper**. Yes, sir, it was.

Mr. **Hatch**. Mr. Cooper, I think that your testimony has emphasized, as I view it, some of the serious implications, pitfalls that the Iran and Contra initiatives were subject to because of the manner in which they were carried out.

Even those persons whose motivations seem to me to have been purely in the best interests of our country, it seems to me that we recognize the folly of some of the means they employed when those means were fully reviewed in the light of retrospection as we look back on it.

It is always easier to look in retrospect and see what happened here.

There were half truths, outright misrepresentations that you encountered in your efforts to get to the bottom of this, to find out what happened, and I think they were indicative of what went on at that time, and certainly we can't countenance that.

But, I think your testimony also emphasizes that the Department of Justice understands the discretion of the Attorney General did have some good basic insights in investigating this and jumping right on it, and to try, as you have said earlier, as you said the Attorney General stated, get your arms around this situation before it got away from you. I think it is safe to say it did get away from you because of the fast breaking of the process and the problems, and because of some of the misrepresentations and difficulties that you had to encounter.

Unfortunately, I am afraid when it did get away your investigation then became part of ours. But I have to say this to you, if you had not done as good a job as you did in those 18 days, and particularly those 4 days, I don't think we would be where we are today with all the knowledge of the facts and information that we have. I don't think the Tower Commission would have had as much information, and I don't think we could have been in a position we are today to, basically, be in a position to accomplish the end goal of bringing the 100 percent of these facts to light for the American people.

So it is easy to criticize. There are only 18 days, and only 4 were the most intensive days, but they were round-the-clock. But I think you deserve a lot of credit for doing what you did do during that time.

I think its had a good effect in helping us to arrive at a lot of the details and a lot of the facts that we have today.

I have a lot of respect for you, Mr. Cooper. I have watched you for the last number of years down at the Justice Department.

I know you are very bright, very articulate, you did a terrific job. Even though some of what you did could be criticized here in the retrospect, what you did in prospect really was extraordinarily good to the extent that you were able to accomplish it.

I just want to compliment you with that, and I think the questioning that I have gone through points out a number of the defects in the system.

Thank you.

Mr. **Cooper**. Thank you very much, Senator Hatch.

Mr. **Rudman**. [Presiding]. The committee is going to take a brief recess, but I just want to caution everybody that because we are running late and the chairman does wish to finish with the witnesses today, I am sure the witness would like to finish today, we will convene promptly at 4:15.

[Recess.]

Chairman **Inouye**. The hearing will please come to order.

Chairman Fascell?

Mr. **Fascell**. Thank you, Mr. Chairman.

Mr. Cooper, the Attorney General put you on this investigation, correct?

Mr. **Cooper**. Yes, sir.

Mr. **Fascell.** Did he issue you any instructions or give you any instructions?

Mr. **Cooper.** Sure, a number of instructions, yes, sir.

Mr. **Fascell.** What did he instruct you to do?

Mr. **Cooper.** He basically headed up the investigation, obviously.

Mr. **Fascell.** Well, he was the Attorney General, but you had the responsibility and the job delegated to you. What did he tell you to do?

Mr. **Cooper.** Well, he gave me countless instructions, Congressman.

Mr. **Fascell.** Just give us the gist of those instructions to the best of your knowledge. I assume they were not put in writing; or were they?

Mr. **Cooper.** No, of course, they weren't. No, sir. But there was a general instruction, I guess, and that was that we would do the best we could to gather the facts and inquire into the initiative particularly the pre-Finding events, pre-January events and try to discern what the true facts were.

Mr. **Fascell.** But what was it that you were trying to discover the true facts about?

Mr. **Cooper.** What, if any, U.S. involvement there was in the September and November transfer of arms, that was our—that was what we had uncertainties and concerns about.

Mr. **Fascell.** In other words, the events to which the Findings referred to by way of ratification?

Mr. **Cooper.** I assume that that paragraph was in there, in there to cover at least the November event, yes, sir.

Mr. **Fascell.** Well, obviously if you got a Finding that ratifies a previous act or acts, it has to be some previous act.

Mr. **Cooper.** Yes, sir.

Mr. **Fascell.** So you were setting out to find out what the previous acts were and who had the knowledge of those previous acts?

Mr. **Cooper.** Yes, sir, although that Finding you reference was in no way an impetus for this, I have already described the impetus for it.

Mr. **Fascell.** I understand. There were three of you all together that basically had this job?

Mr. **Cooper.** Oh, no, I assume you are not counting the Attorney General, but the Attorney General was the——

Mr. **Fascell.** I always count him.

Mr. **Cooper.** Oh, well, then there was four. There was the Attorney General, myself, John Richardson, Brad Reynolds, and I should add that John McGinnis, of my staff, was a full member of this even though he did not meet with the Attorney General during the whole time.

Mr. **Fascell.** In response to Senator Hatch, I got the impression that you kind of coasted along easily for about 10 days, then all of a sudden you found something, and I assume that is what it was you found based on my recollection of your answers, was you ran across a memorandum that all of a sudden turned you guys on night and day, 24-hours around the clock.

Is my impression correct or incorrect?

Mr. **Cooper.** Well, that is—we were not turned on night and day on November 17. We, however, were alerted to the pre-Finding events, I think, by that time, by November 17, and we definitely wanted to inquire into all the facts we could on that score, because those were the legal sore spots.

Mr. FASCELL. Now, which did you do first as part of this investigative team. Did you interview people or did you look at documents?

Mr. COOPER. Our first activity after the Attorney General got his commission from the President was to interview Mr. McFarlane, but contemporaneously with that we were trying to identify the documents that we would need to look at. We have already discussed the fact that we anticipated reviewing all of the NSC documents and we asked that they be gathered and made available.

We also that evening went to extraordinary lengths to review certain materials at another agency, materials with which this committee is familiar. I also was in touch with Dave Doherty in an effort to obtain from them any documentary materials that they might have as well.

Mr. FASCELL. Did I understand, then, that——

Mr. COOPER. The CIA that is.

Mr. FASCELL. —understand that on or about the 24th or whenever it was that Sunday when the Attorney General was at West Point you came across differences in statements or positions or recollections that troubled you and you called the Attorney General on the telephone and said you better get back here and straighten this out?

Mr. COOPER. Yes, sir, that is true.

Mr. FASCELL. I see.

Now, on the 25th, the Attorney General went public, am I correct?

Mr. COOPER. Yes, sir.

Mr. FASCELL. And he made it clear with a disclaimer that this investigation or study was not totally complete, but he had some statements to make.

Mr. COOPER. Yes, and actually he kept referring to the fact that our—the status of our knowledge was continuing to be improved.

Mr. FASCELL. It was a sensible disclaimer, in other words?

Mr. COOPER. Oh, yes, yes.

Mr. FASCELL. Now——

Mr. COOPER. I thought so.

Mr. FASCELL. Now, your recommendations, your findings, your observations to the Attorney General were made how? Hourly, daily, on the telephone, in writing?

Mr. COOPER. During that weekend, they were made quite regularly, not in writing, but they were conversations just repeatedly, and we were meeting all the time and discussing the matter and——

Mr. FASCELL. All right, tell me what you recommended to the Attorney General, please, sir, about the knowledge of people who were involved that you had interviewed, Poindexter, McFarlane, anybody else that was "in the White House?" What did you tell the Attorney General?

You did have a briefing, am I correct? I mean, you had the briefing of him before you went on television, before he went before the media?

Mr. **Cooper**. Yes, but the Attorney General was at the center of this whole weekend. I didn't have to brief the Attorney General. We were briefing, you know, this was an effort wherein the group was, would receive information, you know, each member of this group that received information would then gather and collect it and discuss it and what have you.

Mr. **Fascell**. Excuse me for interrupting you, but my time is so limited, and I am trying to visualize how you did this in the excitement of the last 3 or 4 days, as Senator Hatch was talking about.

Was there a command post in the Attorney—in the Justice Department in which the Attorney General sat so that you could get to him immediately, make decisions about what was going on or the information he had to have? Or was he conducting business, and you reached him by telephone?

See, I don't know how this excitement carried on in order to keep the boss, the head man totally informed so that whenever it was that he finally went out there on November 25, he knew so much about it, you didn't even have to brief him.

Mr. **Cooper**. Because the Attorney General was a hands-on participant, in fact the dominant and moving force participant of the entire effort. He interviewed McFarlane, he interviewed North, he interviewed Shultz——

Mr. **Fascell**. You were there the whole time?

Mr. **Cooper**. I was there for those, yes, sir.

Mr. **Fascell**. And that was the basis of him making the statement that they didn't know anything about it.

Mr. **Cooper**. I beg your pardon?

Mr. **Fascell**. That was the basis for the Attorney General making a statement that the people that you have just named and others did not know anything about the prior events that you were investigating because that is what he said.

Mr. **Cooper**. I don't recall that, but——

Mr. **Fascell**. Well——

Mr. **Cooper**. How is that?

Mr. **Fascell**. He said, according to this transcript of the Attorney General—assuming that it is accurate, and I will assume for the moment that it is, and if it isn't the transcript itself will be the best evidence.

> General Meese, who in the NSC was aware that this extra amount of money was being transferred, et cetera, or under their control? Did Poindexter specifically know? Who else knew? Did the CIA know? Was the CIA Director William Casey aware of this?
>
> Answer: The only persons in the U.S. Government that knew precisely about this, the only person Lt. Col. Oliver North, Admiral Poindexter did know that something of this nature was occurring, but he did not look into it further.
>
> And if I could follow up, sir, what about CIA Director Casey?

It says,

> CIA Director Casey, Secretary of State Shultz, Secretary of Defense Caspar Weinberger, myself and the other members in the NSC, none of us knew.

Was that based on your recommendations?

Mr. **Cooper**. That is entirely consistent with my knowledge of the facts.

Mr. **Fascell**. All right.

Now, did you also decide that the diversion of money that occurred was U.S. money?

Mr. COOPER. No, no, sir.

Mr. FASCELL. I see, well, I misunderstood you then.

Mr. COOPER. No, we certainly developed a serious enough concern that it was that we launched a criminal investigation or an investigation was initiated into potential criminal liability.

Mr. FASCELL. But you weren't sure, is what you are telling me.

Mr. COOPER. That is true.

Mr. FASCELL. Well, did you brief the Attorney General on that issue or did he just decide to go public on his own with that?

Mr. COOPER. At that point, whether this was U.S. money was something that, you know—in fact, the Attorney General at that point seriously doubted it was, but there was a sufficient possibility that the potential criminal implications could not be discounted and we pursued a criminal investigation.

Mr. FASCELL. Mr. Chairman, let me finish reading from this transcript because I think it is important if Mr. Cooper says that it is consistent.

The question was,

> Could you say that since that money was owed to the U.S. Government the $30 million or $40 million, are you going to?
>
> Answer: No, it was not owed to the U.S. Government. All that money was owed to the U.S. Government was paid to the U.S. Government. There is no if, and, buts or doubts on that statement.
>
> *Question:* Are you going to require that the additional money that went to the Contras go back to the U.S. Government?
>
> Answer: We have no control over that money. It was never U.S. funds. It was never the property of U.S. firms. So we have no control over that whatsoever.

Now what you are telling me is that is totally consistent with your investigation?

Mr. COOPER. In fact, when the Attorney General said that, I was concerned.

Mr. FASCELL. You had a reservation, but the Attorney General didn't?

Mr. COOPER. I had a reservation and the Attorney General later in his press conference, I was pleased to hear, suggested a couple of times with respect to that fact specifically that our examination of this continues.

Whether or not these were U.S. funds—your reading of the transcript, however, certainly comports with my recollection of the press conference.

Mr. FASCELL. Thank you, Mr. Chairman.

Chairman INOUYE. Thank you very much.

Before proceeding, without objection, the documents identified as exhibits SS-19 through and including SS-21 will be made part of the record.

Chairman INOUYE. Senator Cohen.

Mr. COHEN. Thank you, Mr. Chairman.

Mr. Cooper, I want to commend you for your very forthright and candid testimony here today.

Congressman McCollum, I thought, engaged in a perceptive line of examination this afternoon.

As I understand it, you said that based upon your understanding of the statements by Colonel North, Mr. McFarlane and Admiral

Poindexter; an attempt was underway to construct a false and misleading chronology as to the fundamental facts involving the United States participation in the sale of arms to Iran. Is that your conclusion?

Mr. COOPER. We certainly now know that to be the case.

Mr. COHEN. And when Mr. McFarlane talked about gilding the President's record, that was a reference to trying to insulate the President from having any role in the sale of the weapons to Iran?

Mr. COOPER. I am not acquainted with that reference.

Mr. COHEN. Mr. Leon, I think, engaged in an appropriate metaphor. He said it is as if you were riding down a fast moving river or stream, and I think that is an appropriate way to describe it.

I would change it a bit and conclude that Colonel North and the others were attempting to take you over Niagara Falls in a barrel with that particular chronology they are providing you.

Mr. COOPER. I think that is entirely apt.

Mr. COHEN. You think that's apt?

Mr. COOPER. I certainly do.

Mr. COHEN. With respect to the diversion memo, you indicated this was a fairly significant event, the revelation about the diversion memo. In fact, it prompted the Attorney General to engage in "expletive deleted," if we can.

Mr. COOPER. And that is very rare.

Mr. COHEN. So it was something of substance on his mind, you would conclude, as of noon that afternoon. But that evening he went to visit Director Casey at Mr. Casey's home.

Are you aware of that?

Mr. COOPER. On Saturday afternoon?

Mr. COHEN. That evening.

Mr. COOPER. Yes, I am aware of that.

Mr. COHEN. Would you have expected him to ask Mr. Casey about the diversion memo since it was such an explosive item?

Mr. COOPER. Not necessarily, but it would not have surprised me if he did ask him about it.

Mr. COHEN. Would it surprise you that he didn't ask him about it?

Mr. COOPER. It doesn't really surprise me that he didn't. No, sir.

Mr. COHEN. Why would something of that significance that caused him to utter an unusual "expletive deleted" and perhaps dominate the conversation at that point suddenly dissipate over a few hours, not to be raised to the Director of Central Intelligence as to whether he was aware of diversion of money to the Contras?

Mr. COOPER. I don't know what went through the Attorney General's mind when he made the decision not to ask that question. I do know what went through mine when I made precisely the same decision not to ask any questions of that kind. As I dealt with people on Sunday morning, a number of—and Friday night, excuse me—on Sunday morning a number of people at the CIA, and I know what went through my mind on that.

Mr. COHEN. I will ask you that in just a moment. You have given the committee an impression of Mr. McFarlane and Mr. Charles Allen in terms of their candidness during the course of your investigation. I think you characterized them as being less than candid in response to some of the questions.

Mr. COOPER. That was only my impression.

Mr. COHEN. Was that your impression?

Mr. COOPER. It was, yes, sir.

Mr. COHEN. You didn't refer to your impression about Colonel North's activities. I wondered, because apparently he was prepared to send Mr. Casey into the breach armed with a deliberate lie, namely to send him up here to Capitol Hill to testify about a matter which would be a deliberate lie.

What was your impression at that time, having learned of that attempt to do that with respect to his candidness or quality of testifying?

Mr. COOPER. Well, I find the event most regrettable and the whole thing quite inconceivable actually.

Mr. COHEN. One other point I would like to raise is an exhibit I would like to offer into evidence. Mr. Cooper, you drafted on December 17, 1986, a memorandum for the Attorney General, and it deals with the timely notification requirement of Section 501(b) of the National Security Act. I would like to summarize what I believe your conclusions are. If I am incorrect, you may correct me.

I think you indicated that in essence, since the statute acknowledges the President's right not to give prior notice, it necessarily follows that the President has sole and absolute discretion to determine what constitutes "timely notice" after the action is underway. And that timely notice could be a matter of days, it could be a matter of weeks, it could be a matter of months, or in this case, even a year and a half before the so-called "gang of eight" were notified, because you give the total discretion to him until the action is actually terminated or completed.

I would concede one point. You indicated that Section 501(b) is clumsily drafted, and I would concede that 501(b) might be clumsily drafted, but the fact is that even if we were to employ the considerable talents of someone like yourself, and to draft it in a very concrete fashion, that under your interpretation Congress could not constitutionally require the President to report a covert action within any specified time period. So even if we didn't draft it clumsily, we still couldn't draft it in a way to specify a timeframe.

Senator Nunn made, I think, an important point yesterday. He indicated that Congress necessarily has to recognize the need for flexibility in giving the President as much as possible in covert actions, and I agree with that. But unfortunately flexibility is too often taken as license, and then after the fact it is rationalized as a constitutional power that cannot be diluted or diminished by congressional action.

That leaves Congress with two essential options. One is to treat the Presidency as a monarchy with absolute powers in foreign policy, what I would light-heartedly call the Hyde view. The second option would be for Congress to refuse to appropriate any funds for covert actions in the future, which I believe would be a mistake, and a serious one, and I will call that the hidebound rule.

I think that comity is important, but it has to run in two directions on Pennsylvania Avenue, and if it doesn't run in two directions, I think that we are going to find ourselves in a very debilitating confrontational paralysis, unless that comity flows in both directions. Unfortunately I find under your interpretation, you may be correct, of the notification requirement, we really don't have much in the way of options other than those two, and you may be correct. I hope that is not the situation.

I would offer this, Mr. Chairman, as an exhibit in the record.

Chairman INOUYE. Without objection, it will be made part of the record.

[The document appears in the appendix B.]

Mr. COOPER. Mr. Chairman, may I have a moment to respond?

First I am duly chastened by your reference to the use of the term "clumsily." I wish I had not used it now, and I should not have used it then. I make no pretense that I could draft a statute in this area with any greater precision than the Congress did when it did in 1980. I think that the theme of this opinion, and certainly my own opinion, is that the President has to have the discretion to decide when notifying even the eight, so-called "Gang of Eight," of a covert intelligence activity will not jeopardize the success of that activity. He is the only one with information on that question and on which a sensible and deliberative judgment can be made, and if the President is going to be the principal and dominant branch in the foreign affairs field, which I think our history suggests that he is and common sense suggests that he should be, then that kind of constitutional discretion has to be accorded to him.

Beyond that——

Mr. COHEN. May I interrupt to point out that in your analysis you made it clear that Congress did not distinguish between short-term and long-term types of covert actions, which this one conceivably could be over a period of years in trying to establish a relationship with Iran, and, therefore, under your interpretation until that action were in fact completed, which may last for years, and there was a discussion about notice could be given when the President finally leaves office, there would not have to be a notification until that time, and it seems to me that that is a very expansive view of the timely notification requirement.

Mr. COOPER. I would pull back from the outline that you have just given. The requirements of secrecy, when a President is dealing with a situation, as I believe the President believed he was dealing with here, the requirements of secrecy extend, certainly in this case, to the potential loss of lives, and American lives, as well as individuals with whom we were, as the President was given to understand, trying to make—develop a constructive relationship.

And on the question of comity. I am very sensitive to your point, and I think that comity should be the hallmark of the relationship between this body and the Executive Branch, and that one need not have a law like 501 for the President in matters of sensitive intelligence and national security and foreign policy concern, would visit with the Congress and receive its advices and its consultations.

But this President, as I understand it, has on every occasion, and members of this body who are acquainted with other covert operations—and it would be improper for me to suggest a number—but are acquainted with the fact that on every prior occasion this President made known his intent to engage in some kind of covert operation, as I understand it, as I have been given to believe.

There is a precedent established by the previous administration wherein on a couple of occasions prior notice was not provided. This President did exert what is his constitutional prerogative to make that extraordinary, and hopefully very rare decision. It is easy in the aftermath of it to second guess it and criticize it, but the fact is unless he has the authority and the discretion to do it, when he believes it is necessitated, then he really can't engage in these activities at all, and they are in the national interest. I am sorry for droning on like that.

Chairman HAMILTON. Mr. Courter?

Mr. COURTER. Thank you, Mr. Chairman.

Mr. Cooper, you said that with respect to the November HAWK shipments that was carried out by Israel to Iran, that when you and Ed Meese spoke with Oliver North, John Poindexter, and Mr. Casey, that they were less than candid with respect to that, in essence either lied or did not correct a lie that was being uttered by one of the three.

Mr. COOPER. That is my belief.

Mr. COURTER. Do you know whether any one of these individuals, Mr. Poindexter, North, and Casey, lied to either you or Mr. Meese, about the diversion of profits from Iran weapon sales to Central America?

Mr. COOPER. I guess I need to back up, because I am not at all satisfied that Mr. Casey knew about the HAWKs. It is possible that he did, and you may know better than I do, but I don't have information to that effect.

No, I do not understand that Mr. North, when we were interviewing him, lied to us about the Contra diversion. He conceded that it had taken place.

Mr. COURTER. Did, in your investigation—did it uncover any other written document or memorandum or letter that referred to, either directly or indirectly, the diversion of moneys from Iran to Central America?

Mr. COOPER. I don't recall it if it did, but I did not go through personally the NSC documents, the documents we got from NSC.

Mr. COURTER. Referring your attention again to the first part of my question, with respect to the lack of candor, at least on the part of Mr. North and Mr. Poindexter, if not Mr. Casey, on the HAWKs shipment, can you posit to me a credible reason why they would be less than candid?

I can think of three reasons why they would, and two perhaps why they wouldn't. One reason, obviously is the fact that if they were less than candid, it would be a lie. The second, they were talking to Ed Meese, who, since it was his Department that drafted the Finding, surely knew of the arrangement about weapon sales to Iran.

And third, they were knowledgeable of the fact that Ed Meese was specifically appointed by the President to bring all the relevant information to the President. It would be like lying to the President.

Now, there are three good reasons why they should have been candid to you. Can you think of any reason why they were not? What were they trying to accomplish by that?

Mr. Cooper. To keep—to prevent or at least to delay the truth of the matter from surfacing. I mean, that was apparently their purpose. I really don't—I don't have a good sense for what was the immediate motivation, the personal goals, the purposes they sought to accomplish.

Mr. Courter. That was the result of their not being candid or lying, but I just don't see that that is a motive at this particular juncture when the whole world is falling in, when the President of the United States is on the line, when he appoints Ed Meese to gather all the facts. It's just not logical to me.

The only two reasons I can think of is number one, protecting Israel at the expense of the Government of the United States, which doesn't seem logical, and the other reason—I would like your opinion on this—that perhaps they felt the Presidential Finding had no retroactive effect, and therefore, did not cover the first shipments?

Mr. Cooper. That well may be what they concluded, and this was some kind of an effort to keep from disclosure the failure to get a Finding for the November matter. That is entirely possible.

Mr. Courter. I see that my time is up.

Thank you very much.

Chairman Inouye. Senator Heflin?

Mr. Heflin. Mr. Cooper, you have told us about discussing with Mr. Green on Monday November the 24th—it is my understanding that that was the second time that Mr. Green came to the Department of Justice and discussed with you the events, and Mr. Reynolds.

In order to save time, I am reading from a memorandum of an interview of William Bradford Reynolds taken on May 18, 1987. This memorandum states on what Mr. Reynolds had told the committee investigators, on Monday, December 1st Reynolds was called by Green a second time.

Green stated that he wanted to talk with personnel at DOJ before the government did anything stupid like seeking the appointment of an Independent Counsel. Green had called Reynolds in the morning. They met in the afternoon.

In addition to Cooper and Reynolds, William Hendricks of the Public Integrity Section attended the meeting. Is that a correct statement?

Mr. Cooper. No, sir. I do not recall having attended that meeting. I do not believe that I participated at all in that meeting.

Mr. Heflin. So you do not recall any of the contents of what might have been discussed in the meeting with Mr. Green and Mr. Reynolds on Monday December 1?

Mr. Cooper. That is correct.

Mr. Heflin. All right, sir. Let me ask you this. You testified about Colonel North, telling you at sometime, and maybe in jest, that he had gotten a lawyer. When was that in relationship to the discovery of the diversion memo which was on—was it before that that he said that, or was it after that on Sunday when you were part of the team that interviewed him?

Mr. Cooper. It was reported to me he said that to Brad Reynolds and John Richardson sometime prior to the time they came to lunch. It's my recollection that I learned at lunch.

Mr. HEFLIN. In other words, before the diversion memo was discovered?

Mr. COOPER. No. They had already discovered the diversion memo because it is my recollection that I learned at lunch of both of those matters.

Mr. HEFLIN. Now, after you learned of the diversion memo, and before the Criminal Division was called in, was there any other information that was gained that would indicate that there might have been violations of criminal law?

Mr. COOPER. Yes, sir. We attempted to find out from the Department of Defense facts in the process for Economy Act transfers—those are transfers between one agency to another, and the transfers of these arms that ultimately got to Iran were from the Department of Defense under the Economy Act to the CIA.

They then went at the Economy Act price ultimately to Israel or Iran. In other words, the CIA received the Economy Act price for them. What we were wondering is whether that price is full and fair market value. Did the U.S. taxpayers receive everything they were entitled to from these arms? And if not, could it be said that the amount that they did not receive that was full and fair market value was therefore due and owing to them and could be said to be U.S. moneys?

Now, since then—that was the analytical process that we were engaged in at that moment and reference has been made to my conversation with Assistant Secretary of the Defense Department. I had conversations with the General Counsel at Army, Susan Crawford, a couple of them.

In fact, she bought over about half a dozen military men to my office Monday or Tuesday night—I can't remember which, and outlined in detail these particular transfers and the Economy Act implications of them. We were trying to figure out the money on this.

Subsequently it was—it became my opinion that that really wasn't particularly relevant, all of that; that in fact this was a transaction from the United States to Iran, not from the United States to Israel. We came to the view that this was not a situation where we were in essence selling to a retailer in Israel and Israel in turn turning around and selling to the ultimate purchaser.

So we came to the conclusion that a good argument could be made that the means—the price charged for these arms were due and owing to the United States minus any reasonable fees or costs incident to the transfer among whoever might have been participating in it.

But that ultimately became my view anyway.

Mr. HEFLIN. One last question—the Attorney General has been criticized by some for failure to give the Miranda warning to Colonel North as he interviewed him. What is your position relative to that?

Mr. COOPER. I have to confess Miranda warnings never entered my mind. It was not a matter that any of us discussed, but I suspect that it didn't enter anyone's mind. We were interviewing with respect to Colonel North, a member of the President's staff. There was no criminal investigation.

It was clear that nobody was insisting that Colonel North be with us. There was no coercion. He was not under any requirement to be there. In fact, we postponed, now much to our chagrin evidently, his interview at his convenience.

He was—it just didn't occur to us, Senator Heflin. Maybe it was a mistake, I don't know, but I don't think that it was.

Mr. Heflin. That is all, Mr. Chairman.

Chairman Hamilton. Mr. Stokes.

Mr. Stokes. Thank you, Mr. Chairman. Mr. Cooper, I have seen some documents that would indicate that you believe that with reference to covert action policy that you can have oral Findings; is that correct?

Mr. Cooper. I do believe that, yes, sir.

Mr. Stokes. And what do you base that upon?

Mr. Cooper. A lengthy, thoroughly researched analysis and an opinion that I provided to you, I believe, dated December 17th.

Mr. Stokes. Are you familiar with a document known as NSDD-159, the National Security Decision Directive, a classified document?

Mr. Cooper. I know of its existence. I would not be able to describe it to you, but that title is familiar to me.

Mr. Stokes. Let me tell you, yesterday Chairman Jack Brooks put into the record a copy of that document. It is dated January 18, 1985, and I have an extract from the document which reads, "Covert Action Policy Approval and Coordination Procedures."

It further reads, "Approval procedures for intelligence. One, Presidential Findings: The President shall approve all Covert Action Findings in writing." This document is signed by the President of the United States and has now been declassified for the purposes of these hearings. You are not familiar with that document?

Mr. Cooper. As I say, now that you remind me of it, I am acquainted with the document.

Mr. Stokes. If the President has in fact signed this directive, do you still think that he can sign—that he can approve oral writings—oral Findings, rather?

Mr. Cooper. Well, I think that he can. I don't think that there is any statutory limits on his ability to do that. The NSDD is an internal intrabranch directive and obviously the President can deviate from requirements that he places upon himself.

Mr. Stokes. It doesn't make much sense, does it, for the President to sign a directive that all Findings must be in writing and then say, oh, I am not going to follow my own directive. That doesn't make much sense in government, does it?

Mr. Cooper. Presumably, he had good reason for requiring a Finding in writing, but I don't think it changes the fact that he can deviate from his own requirement.

Mr. Stokes. Let me ask you this, Mr. Cooper.

Is there any doubt in your mind today that the chronologies that you were first given in November of 1986 were designed to cover up the 1985 November HAWK sales to Iran?

Mr. Cooper. Yes, I believe they were designed to portray a fictitious portrayal of those events.

Mr. Stokes. And had Director Casey given to Congress the testimony in that November 20 draft, he would have perjured himself, would he not?

Mr. Cooper. No, sir, I don't know that to be the case. He would very reported to the Congress a fact that was not true, but whether he would have reported to the Congress a fact he knew that it was untrue is a different question.

Somebody, however, would have been responsible for ultimately responsible for, ultimately responsible for, providing to the Congress a fact known to be untrue, so, which would be perjury.

Mr. Stokes. Even the testimony as of the 21st of November, the revised testimony, as you look back at that testimony, was it complete and factual, that testimony which was given to us?

Mr. Cooper. No, sir, it was not. I am sure it was not complete, although I think that insofar as it did—at least I was quite confident when I left the CIA that those facts that it did report were factual, or I had no inkling that they were not factual.

Mr. Stokes. Lastly, when you and the Attorney General interviewed Colonel North, he was not under oath at that time, was he?

Mr. Cooper. No, sir, he was not.

Mr. Stokes. Based upon your testimony here today, would you agree that, or evaluate, the testimony that he gave you at that time as being false?

Mr. Cooper. I believe it was false in some respects, yes, sir.

Mr. Stokes. Based upon everything you know about Colonel North as a result of your contact with him and your interview of him, let me ask you this: Would you believe him under oath?

Mr. Cooper. Congressman, I would not, but I personally don't believe an oath in any way enhances the obligation of truthfulness.

Mr. Stokes. And in effect, you are saying you would not believe him whether he was under oath or not?

Mr. Cooper. That is—well, I have to regretfully say that, yes, sir, I have to say that.

Mr. Stokes. Thank you very much, Mr. Cooper.

Thank you, Mr. Chairman.

Chairman Inouye. Thank you very much.

Senator Boren?

Mr. Boren. Thank you, Mr. Chairman.

Mr. Cooper, let me say in a series of proceedings in which we have often been confronted by disappointing lapses of appropriate standards of behavior by public officials, I want to congratulate you both on your testimony and on the very sincere way in which you conducted yourself in the course of the inquiry, which you were given some responsibility.

I think it has clearly come through that you have acted with integrity. When you found that it was planned to give misleading testimony, you did everything in your power to try to prevent that from happening, and that you conducted yourself in an appropriate way.

I want to express my appreciation to you for your behavior during that period of time.

Mr. Cooper. Thank you very much, Senator Boren.

Mr. Boren. And to follow up on one question that was referred to by Senator Cohen, you mentioned—Senator Cohen asked you why you thought, after the shocking disclosure of the diversion memorandum, that the Attorney General did not question Mr.

Casey about the diversion or his knowledge of diversion when he met with him later that day.

You indicated that you also did not ask questions about the diversion immediately afterward to those that you were asking questions, and that you had your own reasons. I wonder what those reasons were?

Mr. **Cooper**. I thought Senator Cohen was going to let me off the hook on that one.

Mr. **Cohen**. I guess I did.

Mr. **Cooper**. I guess they were twofold; first, whether or not the Contra diversion was a fact was something obviously we did not know from the memo. But, also, I thought it important that the questioning of Colonel North on that point be questioning that, if at all possible, kind of take him unawares on that question.

Mr. **Boren**. So, you did not want to mention the diversion or the fact that you knew about the diversion to anyone else because it might then have been, that information might have been transmitted to Colonel North before you had a chance to question him?

Mr. **Cooper**. I did not have confidence that it would not be.

Mr. **Boren**. I understand.

I would like to go back now to the question of the money. You indicated that in your opinion, the funds generated, even though a third party might have been used or a commercial cutout, as it is referred to in earlier testimony, in the Finding might have been utilized, that if the property of the taxpayers of the United States was sold, you felt ultimately that the taxpayers were entitled to have whatever was paid for that property returned to them less the normal costs or expenses of carrying out that operation.

Is that still your opinion?

Mr. **Cooper**. Yes, sir, it is, less whatever fees or costs were properly agreed upon.

Mr. **Boren**. Right.

Mr. **Cooper**. Between the United States and whoever it was that assisted in this matter.

Mr. **Boren**. So, in this case, we have had earlier testimony from General Secord and Mr. Hakim that would indicate that these weapons, the major sale totalled some $30 million in terms of what they received for these weapons.

They also indicated to us that they experienced, if we take them at their word and accept their figures, $3.1 million in expenses. We know the government was paid back $12 million, so if we add that 3.1 onto it, that leaves $14.9 million.

Now, there are some funds, we have received various estimates, somewhere in the range of $8 million apparently still in the Swiss bank accounts of various companies that we collectively call the Enterprise, that was in charge of actually selling these weapons or transmitting these weapons and transferring them.

In your opinion, then, would those funds or as much of the $14.9 million as we can possibly recover, would that be the property of the U.S. Government?

Mr. **Cooper**. It certainly possibly would be. I really don't want to—I think that would depend on the factual background, but it very certainly possibly, and even likely would be, in my opinion.

Mr. **Boren**. Do you know we have taken action in this committee, in fact, took action to request that certain equipment be returned that was still in the custody of the Enterprise. In your opinion, would it be appropriate for the Department of Justice to take into consideration whether or not to make a formal request for return to the Treasury of the United States and the taxpayers of the United States of any funds that are proceeds from that sale, once the legitimate expenses have been paid, so that they can be returned to the taxpayers?

As I understand it from hearing Mr. Hakim and General Secord, they have not received any kind of official request other than the statements that some of us have made as individuals that we think we should return that money to the taxpayers.

Mr. **Cooper**. And you are asking if it would be appropriate for the Department to——

Mr. **Boren**. —To consider whether or not to make such a formal request, and to lay claim to those funds for return to the taxpayers?

Mr. **Cooper**. Actually, I think under the circumstances that now prevail with the Independent Counsel, it probably wouldn't, but I should think that the Independent Counsel is pursuing all those avenues that are appropriate to be pursued.

Mr. **Boren**. But if these funds—and I will cease with this question, Mr. Chairman—if those funds really are the property or possibly the property of the taxpayers, as some of us believe, at least if they are not all the property of the taxpayers, we should certainly be collecting some taxes on those proceeds if they are indeed private profits. Shouldn't the Government of the United States be taking some steps to protect the interest of the taxpayers or at least be examining the possibility of taking some steps to make sure that when the legal proceedings are all concluded that we will be able to make the appropriate—take appropriate action to protect the interest of the taxpayers in getting that money back?

Mr. **Cooper**. Absolutely, Senator Boren, and I really have every confidence that that all—that all appropriate measures are being taken by the Independent Counsel.

Mr. **Boren**. Thank you, Mr. Cooper.

Chairman **Inouye**. I wish to announce that members of the House panel have left the hearings to respond to a roll call which is now in progress in the House of Representatives.

Senator Rudman?

Mr. **Rudman**. Thank you, Mr. Chairman.

Mr. Cooper, I want to join in what my colleague from Oklahoma said in characterizing your testimony.

Mr. **Cooper**. Thank you.

Mr. **Rudman**. And I may sound critical of some things, but I am in no way being critical of you. I want you to understand that. You found yourself in a situation, and I believe you did the best you could under the circumstances.

I am struck by one part of your testimony, and I think Congressman Stokes got to the very heart of it when he asked you about Colonel North and his credibility to you. At that meeting, Mr. Casey aside, Attorney General Meese, the chief law enforcement officer of the country, was there with you, and you were trying to determine the facts for the President of the United States, am I correct?

Mr. COOPER. At the meeting in Poindexter's office?

Mr. RUDMAN. No, I am talking about the meeting in which the denials were made of U.S. participation, attempts were made to change the documents, and so forth.

Mr. COOPER. In our interview of Colonel North Sunday evening?

Mr. RUDMAN. I am talking about the meeting at the White House, I believe it was November 20 or 21.

Mr. COOPER. Oh, yes, in Admiral Poindexter's office, yes.

Mr. RUDMAN. Who was present at that meeting?

Mr. COOPER. Admiral Poindexter, Mr. Casey, somebody with him, me, the Attorney General, Paul Thompson, Colonel North, and I think that is all.

Mr. RUDMAN. And statements were made to you in that meeting that you now know and we all know were patently false.

Mr. COOPER. Yes, sir.

Mr. RUDMAN. And at the time the Attorney General of the United States was there on the assignment from the President not only as the President's chief law enforcement officer, chief legal officer, but as one of the President's very close and long-time friends, am I correct?

Mr. COOPER. Actually, Senator Rudman, that is the meeting that led to the discovery of a discrepancy and not until the following day did the Attorney General go to the President and say, "We have got a problem that has to be ironed out promptly."

Mr. RUDMAN. No, I understand, I am not leading to that at all.

Mr. COOPER. OK.

Mr. RUDMAN. I would not anticipate where I am going because I am not sure you know.

Mr. COOPER. I just was—sorry, I was confused.

Mr. RUDMAN. And at that meeting under several lines of questioning, deliberate attempts were made to deceive the Attorney General of the United States.

Mr. COOPER. Actually, there was no questioning at that meeting, and I think we have—I think I must be confused about the meeting you are referring to. At that particular meeting we were going over Director Casey's testimony, and, yes, some deliberate falsehoods were obviously told, but there was no questioning of it. North was understood to be the only person there with any basis for knowledge of the facts, so nobody questioned him when he said no one in the U.S. Government knew that there were HAWKs on this plane. Nobody questioned him.

Mr. RUDMAN. And Admiral Poindexter heard him make that statement?

Mr. COOPER. Yes.

Mr. RUDMAN. And Admiral Poindexter obviously knew at that time that that statement was false.

Mr. COOPER. Yes, he did, it appears.

Mr. RUDMAN. Mr. Casey we don't know about. We will leave it at that.

Mr. COOPER. I don't know about.

Mr. RUDMAN. So the President's National Security Adviser and one of the top assistants to the National Security Adviser are telling the Attorney General, either by active misstatement or by silence, facts which are patently false, correct?

Mr. **Cooper**. Yes, sir, I think that is correct.

Mr. **Rudman**. What strikes me is why they were doing it. They knew the Attorney General was there in behalf of the President, am I correct?

Mr. **Cooper**. No, actually he wasn't there on behalf of the President. He was there as the Attorney General, as someone who had participated in at least a minor way in the inception of the Iranian initiative and who himself had some factual background and some factual contribution to make with respect to that very minor element of it, but he had not yet been deputized, so to speak, by the President to get his arms around this problem.

Mr. **Rudman**. I understand that, of course, but the Attorney General, Mr. Cooper, is the chief law enforcement officer. When he appears in any office in this town, he is representing the President of the United States.

Mr. **Cooper**. Yes. And in that sense, certainly you are correct.

Mr. **Rudman**. And my point, of course, is that when these two gentlemen, who are "loyal servants of the President," are either lying by deliberate misstatement or deceiving by silence on a key point, were they protecting the President?

Mr. **Cooper**. I don't know what their motivation was, Senator.

Mr. **Rudman**. Do you perceive that by that deception they were helping the President?

Mr. **Cooper**. Oh, no, sir, we have evidence here before us to the effect that they were not.

Mr. **Rudman**. So——

Mr. **Cooper**. In many, many ways.

Mr. **Rudman**. So if they obviously wanted to help the President, they certainly were not doing it in what you might consider to be a proper way?

Mr. **Cooper**. No, sir, I don't.

Mr. **Rudman**. As a matter of fact, they were serving the President very poorly, am I correct?

Mr. **Cooper**. That is my opinion, sir.

Mr. **Rudman**. And further the President has a period in there, which we all look at with a gasp, making statements which, in my view, the President believes are true, but the President is not being told the truth by his own people. Am I correct?

Mr. **Cooper**. I think that is accurate.

Mr. **Rudman**. Yes. Mr. Chairman, if I could have one more minute——

Chairman **Inouye**. Please do.

Mr. **Rudman**. —just to make an observation here. You have a very distinguished background. I believe you clerked for Justice Renquist?

Mr. **Cooper**. Yes, sir.

Mr. **Rudman**. You were in a major law firm I believe here in the city?

Mr. **Cooper**. Actually in Atlanta, GA.

Mr. **Rudman**. In Atlanta.

Mr. **Cooper**. Yes, sir.

Mr. **Rudman**. And you practiced corporate law of some sort, administrative law?

Mr. **Cooper**. Corporate commercial litigation practice, yes, sir.

Mr. **Rudman**. Mr. Reynolds is also a very distinguished lawyer with an excellent reputation, Civil Rights Division, major law firm?

Mr. **Cooper**. Here in town. He was the one who was here.

Mr. **Rudman**. Civil litigation, corporate administrative experience?

Mr. **Cooper**. All of those things, Solicitor General's office in the 1970s.

Mr. **Rudman**. The gentleman who was with you, Mr. Richardson, is a very young man who essentially his legal career has been with the Justice Department?

Mr. **Cooper**. That is true.

Mr. **Rudman**. The Attorney General of the United States, although at one time in the distant past an Assistant District Attorney in California, that was a long time ago, has no recent criminal law experience, correct?

Mr. **Cooper**. I expect that is true, yes, sir.

Mr. **Rudman**. And with all the signals that you had, and there were some pretty good signals, and this is not hindsight, this depends on what your background is, and I say that I am not in any way being critical of you, Mr. Cooper, because I think you deserve a lot of plaudits from people, but in fact on November 20, you had an indication that somebody was trying to do something with testimony. That was your first warning. Made you a little nervous, uneasy. That was November 20.

You find out that Shultz knows something that evidently nobody is telling you about. Then you go on on Friday, and you find out the CIA knows something about a pilot knowing about HAWKs. And the next day, mid-afternoon you start to have a diversion memo. So you have a whole lot of signals are coming your way, but nobody recognizes the signals for what they eventually turn out to be, correct?

Mr. **Cooper**. No, Senator, we didn't recognize them at that instant, but——

Mr. **Rudman**. Let me ask you this question. You know Steven Trott?

Mr. **Cooper**. Certainly.

Mr. **Rudman**. You know Bill Weld?

Mr. **Cooper**. Yes.

Mr. **Rudman**. You know a lot of senior FBI people?

Mr. **Cooper**. Yes.

Mr. **Rudman**. I would submit to you, Mr. Cooper, and again I say this to you not critically of you, I can't criticize you, you were put on this assignment. You didn't have the right people on the team, an experienced FBI agent, an experienced criminal prosecutor, a good detective from the Third Precinct of Washington or from the New Hampshire State Police listening to this story unfold would have raised immediate questions about somebody is starting to cover something and why. Isn't that reasonable for somebody who was experienced?

Mr. **Cooper**. We raised those questions. We recognized that possibility. Our effort immediately was to—a mistake had not been made insofar as we could see. A mistake was in the offing, it was clear, but we wanted to prevent it.

Mr. RUDMAN. The records weren't sealed, which is the first thing that any criminal investigator does when things like this happen.

Mr. COOPER. Sure, sure it is, but we were not in a criminal——

Mr. RUDMAN. Of course, you weren't, because neither you nor Mr. Reynolds nor the Attorney General nor Mr. Richardson had come close to a serious criminal case either ever, or in your recent career, and I don't say that critically. You are a very good lawyer in what you do, and you shouldn't be expected to know that.

I will wind up, Mr. Chairman. You know I think what happened here is it was almost as though we had a group of the world's best cardiologists trying to do neurosurgery. It just doesn't work. I will never understand, and I intend to ask Attorney General Meese when he gets here, "Why didn't you get Bill Weld, or Trott or a 20-year FBI veteran or somebody on the team, because you had to assume at some point that something had a very strange odor to it?"

Mr. COOPER. We obviously came to that distinct conclusion, and we took the appropriate action, and I think we took the appropriate action when it was warranted.

Mr. RUDMAN. You did the best you could, but by the time you took the action there is other evidence you are unaware of and only the committee is aware of about shredding. You will hear other evidence that will make you probably feel worse than you feel now. By the time you got to looking at things, there was enough shred to fill up a half of a boxcar, and you telegraphed what you were doing to North on Sunday morning or Sunday afternoon, and North knew exactly what to do when he heard what you had.

Thank you, Mr. Chairman.

Chairman INOUYE. Mr. DeWine.

Mr. DEWINE. Thank you very much, Mr. Chairman.

Mr. Cooper, during these hearings I have tried to assume a posture or position of listening to the evidence and waiting until all the facts came out before making some conclusions. I hope I have done that, and frankly I intend to continue to do that.

But based upon your testimony today and based on the other evidence which this committee has heard in public session, I think several things are abundantly clear. First of all, I think the evidence clearly shows that Ollie North lied to the Attorney General of the United States. I don't think there is any doubt about that. I think the evidence also clearly shows that Bud McFarlane lied to the Attorney General of the United States.

And it further shows that Admiral Poindexter, at best, failed to speak up when he was hearing what to him had to be very clearly lies. The evidence also shows that the Attorney General of the United States is really the one who blew the whistle. He is the one who went to the President and said, "Mr. President," in essence—I don't know if these are the exact words—but, in essence said, "We got a problem. I can't get a straight story. We are getting different stories. We have got to find out what really happened. We have to find out what the truth is."

The evidence clearly also shows, in my opinion at least, that after that it was the Attorney General's men, his own men who found what has been thus far the key document, namely the diversion memo. In fact, it was Brad Reynolds. We can talk about whether you all had a lot of experience in the criminal area or not, but it was the head of the Civil Rights Division who ultimately is the one who actually grabbed this document, hid the document, got it out of there, and turned it over to the Attorney General. And then it was the Attorney General who went to the President of the United States and reported on what was going on and what your investigation had disclosed.

I think the evidence also clearly shows that while you have been criticized, that at least, in my opinion, hindsight is always wonderful, you all have been criticized for conducting too quick an investigation, you have been criticized for conducting too slow an investigation. You have been criticized, some people on this committee have criticized you saying what you should have done is you should have called in the Justice Department Criminal Division, you should have got the FBI involved very quickly, and you all should have backed out of it very quickly. Maybe that is true, but again hindsight is always 20/20.

You have also been criticized for not doing a thorough enough investigation. In fact, an allusion today was made to the fact tha you had not uncovered certain evidence, and that this committee was able to uncover a lot of different evidence that you all were not able to uncover.

That is true. But the committee, committee staff who have done, I think, a very, very good job of investigating this, the basic facts are that this committee staff has been at work for months.

The facts also are that according the account, I guess that we have a staff of over 125, and that that staff is growing as we work. It is a good staff.

It is a staff that has done its job. But I think we need to point that out to keep everything in its proper perspective.

Let me talk, if I could for a moment about the criticism. Like several other members on this panel I am a former prosecuting attorney.

I have been involved in a lot of investigations. I have been involved in investigations where when we started out we really didn't have a criminal focus.

And I know and I can tell the committee and tell all of us that it is tough to determine when that focus exists, and at some point as an investigator you make a decision, yes, this is a criminal case, yes, we have got to do the things that we need to do. There is a focus as the law talks about.

We have to give Miranda rights, we have to do thus and thus. But it is not really clear and it is always a judgment call.

What I suspect is different, also, about this particular case is, yes, you were getting signals, but I am not sure very early on at least they were signals that indicated a criminal problem. Maybe they were.

Hindsight clearly shows the were. But the signals clearly demonstrate that there was a political problem. That there was a policy problem. That there was something that had to get resolved.

So I don't know whether you should have acted sooner than you did. I don't know whether you should have gotten criminal sections involved.

Hindsight probably would indicate that you probably should have. But it is a close call and it is a subjective thing and I think it is a very, very tenuous argument to make that you should have done it earlier than you did.

If I could have one more minute, Mr. Chairman, I am almost done.

Chairman INOUYE. Yes.

Mr. DEWINE. Thank you.

I think the worst argument that can be made for what your department did is you didn't move quite fast enough in sealing the records. You didn't move in there and make sure that Ollie North was not involved in the shredding that we now know existed. That is the worst, I think, criticism that can be made.

The real problem here, I think, is that the people who I have mentioned, Admiral Poindexter, Lt. Col. North, Bud McFarlane, did not really understand the lessons of history. They didn't understand what we have learned in this country through a torturous process.

They didn't really understand what your boss, what the Attorney General of the United States told Bud McFarlane. They didn't understand, to quote the Attorney General, "That you serve the President best by telling the truth."

That is the best way to protect the President is to tell the truth completely and get the facts out. The Attorney General understood that.

Unfortunately, these other individuals did not, and because they did not they did not serve the President well, nor did they serve the country well.

Thank you very much.

Mr. COOPER. Thank you, sir.

Chairman INOUYE. Senator Mitchell?

Mr. MITCHELL. Mr. Cooper, you are the Assistant Attorney General for the Office of Legal Counsel, and you testified that morning that the Office of Legal Counsel analyzes and prepares legal opinions on the important legal issues facing the Executive Branch of Government, or words to that effect. You are in effect, it has been said, the lawyer for the President's lawyer. That is, you are the Office legal counsel to the Attorney General of the United States; is that correct?

Mr. COOPER. Yes, sir.

Mr. MITCHELL. Mr. Cooper, I have before me a memorandum for the Attorney General prepared and signed by you, dated, December 17, 1986, 18 pages in length, I am going to ask, Mr. Chairman, that this be made a part of the record. I would like to simply read to you——

Chairman INOUYE. Without objection, so ordered.

[The document appears in appendix B.]

Mr. MITCHELL. —read one paragraph from your memorandum before I lay it in the record, Mr. Cooper, because I think it is relevant to what has occurred in these hearings prior to today.

You wrote in your memorandum and I quote, "The National Security Council clearly falls within the definition of an intelligence agency given in Section 403-B(1) of the Intelligence Authorization Act," and then you quoted the act, "any department, agency, or other entity of the United States involved in intelligence or intelligence-related activities."

Mr. Chairman, I will ask this be placed in the record.

I want to ask you, Mr. Cooper, as the principal member of the Executive Branch charged with the responsibility of rendering legal opinions, prior to that time had you ever been asked by anyone within the Executive Branch for a legal opinion on that particular question?

Mr. **Cooper.** On the question addressed in footnote 10?

Mr. **Mitchell.** Yes.

Mr. **Cooper.** No, sir.

Mr. **Mitchell.** Now, Mr. Cooper, in response to a question from Senator Hatch, you said you believed what Colonel North told you when he said that the President didn't know of the diversion.

Do you recall that response?

Mr. **Cooper.** Yes, I think I do.

Mr. **Mitchell.** You also believed, did you not, what Colonel North said when he told you on November 20th that no one in the U.S. Government knew at the time that HAWK missiles were shipped to Iran in November of 1985, did you not?

Mr. **Cooper.** Yes.

Mr. **Mitchell.** In fact, at the time these events occurred, you believed everything Colonel North told you, didn't you? You had no reason to disbelieve him?

Mr. **Cooper.** On the 20th, that is true. On Sunday, that is not true.

Mr. **Mitchell.** So the fact that you believed what Colonel North said is not evidence of the truthfulness of his statements one way or the other, is it?

Mr. **Cooper.** Of course not.

Mr. **Mitchell.** Now, you testified this morning in response to a question by Ms. Naughton when she asked your impression of Mr. McFarlane's credibility following your meeting with him and the Attorney General on November 21st and you said, I believe I wrote down exactly your words: "He was not entirely straightforward and was not entirely forthcoming."

Let me ask you more directly—did you mean that you thought he wasn't telling the truth?

Mr. **Cooper.** I really would resist that characterization. I did not have confidence that he was telling me the truth. I suspected he was not telling us the truth.

Mr. **Mitchell.** I want it in your words, your words are you suspected that he was not telling you the truth, that would be your characterization of his——

Mr. **Cooper.** I am comfortable with that characterization.

Mr. **Mitchell.** When you met with Colonel North on that Sunday, you had had a meeting with him a few days before that, and that has been covered in great length, so I won't go into that, regarding his active encouragement of the Director of Central Intelligence and the National Security Adviser to come before Congress and make statements which it is now obvious he knew were untrue. And you had the meeting with him in the Attorney General's Office because the previous day you had discovered the memorandum referring to the diversion, and that was a significant discovery insofar as your inquiry was concerned.

Mr. **Cooper**. Yes, although we fully planned to interview him even if we hadn't discovered that diversion memo.

Mr. **Mitchell**. Now, in the course of it, he was shown the diversion memo and then you testified and I think again I wrote down your words exactly, "Colonel North asked did you find a cover memo. Mr. Reynolds responded no. The Attorney General said, 'Should we have found a cover memo?' And Colonel North said, 'No, I was just wondering.'"

And then you testified he volunteered to go back and look for one if you wanted him to.

My question to you is, in the context of what had occurred, did that arouse your interest or curiosity it?

Mr. **Cooper**. Senator, I tried shortly after the lunch break to better express the moment and context in which I recall that exchange to have taken place.

The one that you have just reported I do not think is accurate. The memo by that time had been in Colonel North's hands for some time. He had been questioned on several aspects that were, you know, by comparison, noncontroversial.

The exchange, as I recall it that you are referring to, took place after the questioning about the Contra diversion had begun and was in train and it had been established that there had been a Contra diversion and that some funds had been transferred, though he didn't know how much money, that insofar as he knew, the following people knew about it, and he did not think that other people knew about it.

And then the Attorney General attempted to find out if there were other ways for him to discern who else might know as opposed word-of-mouth knowledge of this, but by documentary knowledge of this.

Keep in mind this is a memo that on the face of it appears to be a draft. So there was an exchange in which the Attorney General asked if this thing had gone forward to the President, would there be a record of it in your files and so, therefore, we would have it presumably.

To which he said yes, we keep records of stuff that goes to the President. And a couple of other questions along those lines. It is at that point, I think, that North said—asked the question to the effect, "Was there a cover memo on this?"—"Why, was there a cover memo?" something along those lines.

And the Attorney General responded, or I think actually Brad Reynolds responded that there had not been a cover memo and that seems more to accord with his understanding. He would have been surprised if a cover memo had been on this thing.

Mr. **Mitchell**. So when you say the question was inaccurate, it is not inaccurate as to what was said, but you wanted to make clear there was a gap in time and intervening questioning between presentation of the diversion memo to Colonel North and his raising of this question of a cover memo?

Mr. **Cooper**. Yes, and to provide you my best sense of context, it was not he was handed a memo and he immediately blurted out, "Was there a cover memo?" There was nothing that seemed furtive about it at all.

Mr. **Mitchell**. I think you are saying that he very skillfully raised the question at a time and in a manner so as not to arouse your interest and curiosity.

Mr. **Cooper**. It may well have been the product of skill; I don't know.

Mr. **Mitchell**. One of his many skills which have been displayed before this committee.

Thank you, Mr. Cooper, for your testimony.

Chairman **Inouye**. Congressman Jenkins.

Mr. **Jenkins**. Thank you, Mr. Chairman.

Mr. Cooper, I will be very brief, you didn't have experience in November, I assume you do now, if you are ever asked again.

In addition to the figures that you have indicated that either lied to you or misled you, North, Poindexter, McFarlane, possibly others that you named, do you know of anyone else that did not tell you the truth that you questioned? Are you aware of anyone else?

Mr. **Cooper**. No, sir. Not that I can think of.

Mr. **Jenkins**. Incidentally, when you were preparing to come here, did you meet with anyone to go over your proposed testimony in the Department of Justice?

Mr. **Cooper**. No, sir, I didn't meet with anybody, but certainly I have had conversations with a number of people throughout all this.

Mr. **Jenkins**. And with the Attorney General?

Mr. **Cooper**. I haven't had a conversation with the Attorney General for some time. He has been out of town now for a couple of weeks. I haven't had a conversation with the Attorney General on this subject matter in many weeks that I can recall.

Mr. **Jenkins**. I am not trying to imply that you are preparing your answers in a way that is not truthful, because I think your testimony has been truthful. I am curious as to whether or not you discussed the problem areas that may arise in your testimony with members of the Department of Justice?

Mr. **Cooper**. No, sir. Throughout this process, understand I have spend upwards of 25 hours with the excellent staff of this committee providing what information I could, and I have spent a very large number of hours with other bodies investigating this.

Throughout this time, I have had conversations with others whose memories might be able to supplement my own, where I found a flaw or something like that. But that is the extent of it.

Mr. **Jenkins**. As I understand on your November 21st activities, you were informed that the President and Mr. Regan had met with the Attorney General on that date; is that right?

Mr. **Cooper**. I am sorry. What day was that?

Mr. **Jenkins**. November 21st.

Mr. **Cooper**. Yes.

Mr. **Jenkins**. At that time, the President was told of the problem with the 1985 shipments? Is that what the Attorney General indicated?

**Mr. COOPER.** I honestly can't tell you if he identified the precise nature of the concern. He may well have, but I just don't know.

**Mr. JENKINS.** The Attorney General did not indicate that the President had been aware or not been aware of the 1985 shipments?

**Mr. COOPER.** I cannot recall him having reported to me any information on that.

**Mr. JENKINS.** That would have been a critical question, I assume, if there had been an absence of a Finding.

**Mr. COOPER.** Yes, sir, it would indeed.

**Mr. JENKINS.** But you don't know whether or not that question was asked of the President?

**Mr. COOPER.** I don't know whether it was asked on that Friday. I think it has been asked by at least the Tower Board since. But I don't know whether he asked that question or not.

**Mr. JENKINS.** Let me ask you one further area. Did you do any investigation as to donations or gifts by third countries, other than the $10 million gift?

**Mr. COOPER.** No, sir, I didn't. That part of it was not at all something that came into our factfinding, this was not something we discovered, the $10 million gift.

**Mr. JENKINS.** So you did not look into any of those areas whatsoever?

**Mr. COOPER.** None of those areas.

**Mr. JENKINS.** My time is up. I want to thank you for your testimony today.

**Chairman INOUYE.** Senator McClure?

**Mr. McCLURE.** Thank you, Mr. Chairman.

Mr. Cooper, I believe you testified this morning that during the ride back to the office after your luncheon meeting where you were informed about the diversion memo that "the legal significance was still not clear to me." I believe those were your words this morning. I believe you added it is still not clear to you today; is that a fair summary of your statement?

**Mr. COOPER.** I think that is a fair summary of my statement, yes, sir.

**Mr. McCLURE.** What do you mean by saying the legal significance is not clear to you?

**Mr. COOPER.** I have not examined a lot of the issues, and arrived at any conscious judgments upon the issues that are raised and implicated by that diversion.

**Mr. McCLURE.** Would it be fair to say that then, and now you are not certain in your own mind with respect to possible violations of law that may be indicated by that memo?

**Mr. COOPER.** It is certainly fair.

**Mr. McCLURE.** Do you have in mind all of the several acts that you referred to—the Economy in Government Act, the Export Arms Control Act, the various other statutes dealing with fraud?

**Mr. COOPER.** Well, actually I have examined the Arms Export Control Act in some detail, and I think the record now will reflect some lengthy legal memoranda that my office has prepared on several of the issues.

But the so-called diversion issues are not issues that I have arrived at any judgments on.

Mr. McClure. All right. And with whatever relevance you are no more certain with respect to the Boland Amendment so far as the diversion memo is concerned?

Mr. Cooper. Yes, sir, I have not examined the Boland Amendment and arrived at judgments on that.

Mr. McClure. Mr. Cooper, when you interviewed Colonel North regarding the diversion memo he stated that the President had not seen the memo; is that correct?

Mr. Cooper. Yes, sir, you know, to his knowledge he did not think that he had.

Mr. McClure. Did Mr. Poindexter or Mr. McFarlane indicate that the President had seen the memo?

Mr. Cooper. On the contrary. They both said or at least I am certain that Admiral Poindexter said, no, but I am not sure McFarlane would have known one way or another, but he did say that he didn't know that the President knew about it.

Mr. McClure. This morning you testified that you had been told that it was Mr. Nir who had come up with an idea of a diversion to the Contras and that Nir was portrayed as eager to help the United States and the Contras. Is that correct?

Mr. Cooper. That is the understanding that Colonel North provided us.

Mr. McClure. It was Colonel North who told you that?

Mr. Cooper. Yes, sir.

Mr. McClure. What exactly do you recall Mr. North saying about Mr. Nir's involvement?

Mr. Cooper. That it was Colonel North's recollection that it was Nir who approached him with proposals to try to assist in efforts to assist the Contras, and that Colonel North had indicated that Nir had proposed a couple of things that would have been, by North's reckonings, unlawful. But that when he came up with the idea of using profits, excess of funds from the arms transactions, that they went forward with that.

Mr. McClure. You have testified that you have come to the conclusion in your own mind that at least a good case can be made that the proceeds of that sale, the net proceeds of that sale are moneys that belong to the U.S. Government; is that correct?

Mr. Cooper. Yes, sir.

Mr. McClure. You were somewhat less than totally dogmatic about that statement.

Mr. Cooper. It is my view. It is my view.

Mr. McClure. You have indicated that it took you some time to come to that point in your discussion or in your thinking about that question.

Mr. Cooper. We analyzed the issue quite extensively.

Mr. McClure. Is it conceivable that those that were involved in this transaction might have reached a different conclusion?

Mr. Cooper. Oh, certainly. Yes, sir.

Mr. McClure. That is not so off the wall as to be ridiculous and obviously wrong or self-serving?

Mr. Cooper. There are some propositions that would not be—that would not answer to your description, but the proposition that I have heard, the notion that certain countries or individuals between the United States and Iran were the owners of the arms and could do with them essentially what they would, including sell them to Iran. That is a proposition that does fit the description, in my opinion, that you have provided.

Mr. McClure. Mr. Chairman, if I might, I have one further inquiry. I am not certain that I understand how it was that Mr. Green was talking to you, in what capacity he was talking to you and the Attorney General or to Brad Reynolds, whoever it was he was talking to.

Did I hear you correctly to say that he had indicated that he was not talking to you as counsel for these parties?

Mr. Cooper. That is my recollection for his position, yes, sir.

Mr. McClure. If he was not approaching you as attorney for the parties, what was his ostensible purpose in talking to you and what was your reason to be talking to him about these matters?

Mr. Cooper. He had information about this Iran initiative that was important and that was very important information and it was very important that we have it. That was his—that was his presentation.

Mr. McClure. That was his approach to you, but when it came down to it his important information was you shouldn't go public with it?

Mr. Cooper. That was one of the propositions that he advanced, yes, sir.

Mr. McClure. I want to commend you for your appearance here and also say that I don't regard the fact that you didn't jump to conclusions earlier as being any indictment of your perception. Some people arrive at conclusions faster than others, and I will say to my friend from New Hampshire—he is smiling. He knows I am talking about him.

The second point that I think ought to be made is I don't think we should leave the record unclear on one point, and that is at least some of us don't think you are too young to handle the job. The Constitution of the United States says you are qualified, at least by age, to be a member of the House of Representatives at age 25, and I assume if you are qualified to be a member of the House of Representatives, you might also be old enough to be an Assistant Attorney General.

Thank you very much.

Mr. Cooper. Thank you, sir.

Chairman Inouye. Senator Cohen.

Mr. Cohen. I had one other question. Earlier today you indicated that while you were investigating the matter with Colonel North, you asked him whether he was told or believed that there was a shipment of oil-drilling equipment, and his response was,"No, but I could probably pass a lie detector test if I had to." And he said it in a joking fashion.

I was struck by the curious response that he gave you. Why would he suggest to you that he could pass a lie detector test if he had to?

Mr. Cooper. I think his point was he was told it was oil-drilling equipment. He had doubts about whether it was really oil-drilling equipment, and in fact in—if he had to say, he would probably have said, I don't really think this is oil-drilling equipment, but he nonetheless had been told it was oil-drilling equipment and it was on that basis that he proceeded. That was the essential pitch.

Mr. Cohen. Doesn't that sound like a curious follow-up statement, "but I could probably pass a lie detector test if I had to?"

Mr. Cooper. It was a curious formulation and it stuck in my mind.

Mr. Cohen. Do you think he was testing you?

Mr. Cooper. Well, I don't know. I just don't know. He may well have been.

Mr. Cohen. Thank you. Thank you, Mr. Chairman.

Chairman Inouye. Mr. Cooper, it has been a long day and apparently I will be the last person to question you, sir. In response to a question by Chairman Stokes, you indicated that Colonel North would lie, even under oath. When did you reach that conclusion?

Mr. Cooper. Senator Inouye, I guess I really feel bound to say that I regret that I have come to the opinions that I have, and have expressed regarding the events and the truthfulness of certain people in those events. I feel very awkward about it, because I do truly believe that some individuals fell into grievous error in this event, in this matter.

But I feel very sorry for them. I think by and large they are probably decent and honorable men who, as I say, fell into an error on this occasion. But not that they—that these men are given to this kind of behavior or anything of the kind.

I just wanted to make clear that I do not relish having come to the conclusions or sharing them publicly as I have today, these conclusions about what these men said.

Chairman Inouye. On November the 23d, when the Attorney General and you, together with others, met with the Colonel and confronted him with the diversion memo, were you convinced at that time that he was capable of being less than candid?

Mr. Cooper. I approached it with sensitivity to that prospect, yes, sir. I wasn't convinced of it at that point, but it was not with blinders that I participated in the meeting.

Chairman Inouye. So on the 23d of November, you had doubts as to Colonel North's veracity and honesty?

Mr. Cooper. That is really, I guess, in a way putting it too strong. I knew that there was a serious collision between what he reported and what appeared at that point to be the fact, because I was absolutely convinced that the Secretary of State and Mr. Hill were candid and correct, but by the same token I did not lightly—by that time I had come to that conclusion.

I have certainly come to that conclusion now and the questions that I received regarding whether or not certain statements were true or false have all been phrased in the context of my judgment and belief now. Now we all know that they were not. But I also have to say that the—that I found Colonel North entirely believable on every occasion that I met with him, his demeanor was—there were no indications in his demeanor or anything else that suggest to me that he was not being truthful.

On the contrary, I found Mr. McFarlane ill at ease, and that is one of the things that led me to be concerned that he wasn't being straightforward and thoroughly candid, as I mentioned earlier.

Chairman INOUYE. In fact you have testified that on November the 21st, you had serious concerns regarding the candor of Mr. North and Mr. Poindexter, and yet the Attorney General told Mr. Poindexter that a search of the files of Colonel North would be conducted the next day; isn't that correct?

Mr. COOPER. The Attorney General asked the head of the National Security Council to have the documents prepared and available.

Chairman INOUYE. That was November 21st, and we have testimony now that tells us that that evening we had the famous shredding party.

Mr. COOPER. Yes, sir, that appears to be the fact.

Chairman INOUYE. Do you believe Admiral Poindexter warned Colonel North?

Mr. COOPER. Somebody did, it appears. And Colonel North was there Saturday morning. Somebody, obviously, made him aware of the fact that we were going to review the documents.

Chairman INOUYE. The day after the shredding party, the 22d of November, Mr. Reynolds went to the office and found this diversion memo?

Mr. COOPER. After the shredding party?

Oh, yes.

Chairman INOUYE. The 22d. Did Mr. Reynolds tell the Colonel that he was taking this memo from the files?

Mr. COOPER. I just don't know the answer to that. I doubt it very seriously, extremely seriously. In fact, I would say that the answer to that is no.

Colonel North was surprised when we had the memo, or at least he was surprised when the reference was made to the Contra diversion in the memo, and I am absolutely certain, let me just escalate my confidence to that level, that Mr. Reynolds and Colonel North had no conversation about that memo.

Chairman INOUYE. And on November 25, I gather the Attorney General was compelled to call a press conference to advise the nation of the discovery of this memo and, in the interim, you had heard from the Secretary of State, and others, which confirmed your doubts about the Colonel's veracity and honesty, isn't that correct.

Mr. COOPER. We had—we were getting wary of it, yes, sir.

Chairman INOUYE. At the time of the press conference on that day, the Attorney General directed that the office of Colonel North be secured; is that correct?

Mr. COOPER. He did direct that, yes, sir.

Chairman INOUYE. When was the office actually sealed. The orders were given on the 25th of November. When was it sealed?

Mr. COOPER. I defer to counsel that the FBI sealed it on Friday, I think I understood her to say. I don't have a personal recollection of that fact.

But it is my understanding, however, that in the second meeting when the miscommunication was discovered between the Attorney General and the Deputy Attorney General, it is my understanding that Peter Wallison was made—was directed at that moment to have those offices secured.

Now, that apparently wasn't the FBI, its official sealing of the offices, but Peter Wallison was advised, it is my understanding, that he should secure them and, as I recall, Colonel North was not—his pass and what have you, were confiscated.

Chairman INOUYE. I am just curious, why did it take so long to secure this office, because on the 7th of November you were going to have doubts; the 17th of November, you quite clear that something was wrong; on the 20th, you felt compelled to call in the Admiral and the Colonel; on the 21st, the Admiral was told that the office would be searched; on the 23d, you confronted the Colonel with the memo; on the 25th, you call the press conference. In the interim we have shredding parties.

Why did it take so long?

Mr. COOPER. Again, Mr. Chairman, not until the 25th was the decision made that we, indeed, could and should go forward with a criminal investigation. During this period of time, obviously, evidence was lost, and that is regrettable, and in hindsight, obviously, one wishes that extraordinary measures of some kind had been taken and people had perceived the need to take extraordinary measures. But not until the 25th did we develop an understanding of the implications of the diversion that satisfied us that there was a potential criminal predicate and, therefore, go forward with the investigation at that moment.

Chairman INOUYE. On the 25th of November?

Mr. COOPER. That is my recollection, yes.

Chairman INOUYE. But yet it was about 5 days beyond that when this office was sealed.

Mr. COOPER. Yes, sir, and—well, by the FBI. And I don't really have a good understanding for why that is true.

Chairman INOUYE. When did the Attorney General meet with the President to advise him of the discovery of this memo.

Mr. COOPER. Monday the 24th.

Chairman INOUYE. The 24th of November?

Mr. COOPER. Yes, sir.

Chairman INOUYE. Do you know whether the President called Colonel North on that day?

Mr. COOPER. I have no knowledge that he did that, no, sir.

Chairman INOUYE. Do you know whether the President did call Colonel North?

Mr. COOPER. Do I know if he did not, or did?

Chairman INOUYE. Whether he did?

Mr. COOPER. I have no knowledge either way. I just don't have any knowledge at all about that.

Chairman INOUYE. Was there not——

Mr. COOPER. I never heard that he did.

Chairman INOUYE. Wasn't that important information for you?

Mr. COOPER. If the President called Colonel North on the 24th?

Chairman INOUYE. Yes.

Mr. COOPER. Well, it would be important information, I guess, but I mean I have no knowledge that he did, no reason to think that he did.

Chairman INOUYE. If you were the President of the United States and a firestorm was breaking all around you with this disclosure and the Colonel's name is splattered all over the front pages, would you have called him in?

Mr. COOPER. I think I misunderstood the date. Yes, on the 25th, when this thing was made public, I might have done so, yes, sir. I don't know whether the President did, however.

I might have called him in. Certainly. I don't know whether the President did or not.

Chairman INOUYE. Is that what a reasonable man would have done?

Mr. COOPER. Call in Colonel North?

Chairman INOUYE. Yes.

Mr. COOPER. Well, I mean, I don't know, I think a reasonable man would have. I think a reasonable man might not have. I don't think it was unreasonable, in other words, for him not to have if he didn't. He just fired him, apparently.

Chairman INOUYE. None of us here have ever sat where you are sitting now, so none of us can ever know how it feels to be a witness, but in a small way, I can sympathize. It has been a difficult day for you, and therefore, with all sincerity, in behalf of the joint committee, I thank you for your assistance today.

Mr. COOPER. Thank you very much, sir.

Chairman INOUYE. You have been very helpful.

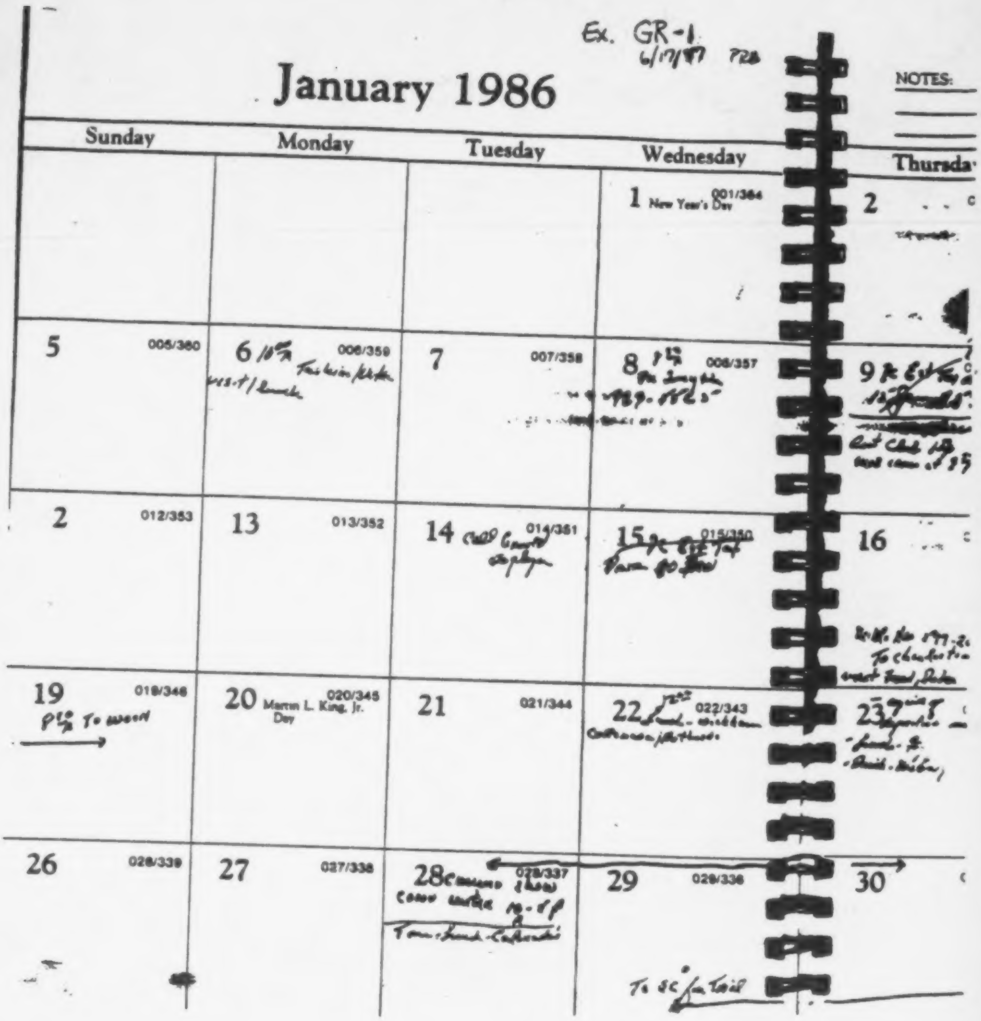
Mr. COOPER. It has been my pleasure. Thank you.

Chairman INOUYE. The joint committee will stand in recess until 9 a.m. Tuesday, the 7th of July, 1987, to receive the testimony of Lt. Col. Oliver North.

[Whereupon, at 6:05 p.m., the Select Committees recessed, to reconvene at 9:00 a.m., Tuesday, July 7, 1987.]

# APPENDIX A: EXHIBITS

## Exhibit GAR-1



Ex. GR-1
6/17/87 PRB

January 1986

NOTES:

| Sunday | Monday | Tuesday | Wednesday | Thursda |
|---|---|---|---|---|
| | | | 1 New Year's Day 001/364 | 2 [illegible] |
| 5 005/360 | 6 10 am 006/359 [illegible] visit/lunch | 7 007/358 | 8 008/357 [illegible] | 9 [illegible] |
| 2 012/353 | 13 013/352 | 14 014/351 Call [illegible] | 15 015/350 [illegible] | 16 [illegible] |
| 19 019/346 [illegible] To [illegible] | 20 Martin L. King, Jr. Day 020/345 | 21 021/344 | 22 022/343 [illegible] | 23 [illegible] |
| 26 026/339 | 27 027/338 | 28 028/337 [illegible] | 29 029/336 To SC for trial | 30 |

NOTES:

| sday | Thursday | Friday | Saturday |
|---|---|---|---|
| 001/364<br>'s Day | 2 002/363 | 3 [illegible] 3pm 003/362 | 4 004/381 |
| 008/357 | 9 Pr Est Tax Due 009/356<br>1st Qtr $837.25<br>Tom<br>Tax Lunch<br>Cart Club 1pm<br>[illegible] 3pm | 10 010/355 | 11 011/354 |
| 015/350 | 16 016/349<br>Dr Mc Kee 577-2000<br>To Charleston 2801<br>[illegible] | 17 017/348 | 18 018/347<br>Depart for [illegible]<br>10-1[illegible]<br>3pm |
| 22/343 | 23 Opening 023/342<br>[illegible]<br>- Lunch - Biggs 12:00<br>- Smith - McBrayer 3pm | 24 Lunch 12:00 024/341<br>[illegible] Club / Jack [illegible]<br>966-7945 | 25 025/340 |
| 29/336 | 30 030/335 | 31 6:30 ~~031/334~~<br>~~Pa [illegible]~~<br>~~577-1088~~ | 1 |

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| July |  |  |  |  |  | 1986 |
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| 20 | 21 | 22 | 23 | 24 | 25 | 26 |
| 27 | 28 | 29 | 30 | 31 |  |  |

# February 1986

| Sunday | Monday | Tuesday | Wednesday | Thursday |
|---|---|---|---|---|
| 26 | 27/ | 28/ | 29/<br>To Wright Bird.<br>To DC for trial | NOTES:<br>30/ 8:30 [illegible]<br>David Zatt[illegible]<br>H- 722-[illegible]<br>O- [illegible]<br>to Charlotte [illegible] |
| 2 033/332<br>Drive for Trial | 3 034/331 | 4 035/330 | 5 036/329<br>9:00 Trial start | 6 [redacted] |
| 9 040/325 | 10 041/324 | 11 042/323<br>To Chicago<br>CALL Jack Sheridan<br>966-7945<br>George Santa[illegible]<br>323-6445 | 12 Lincoln's Birthday Ash Wednesday 043/322<br>E Day | 13 [redacted] |
| 16 047/318 | 17 Washington's Birthday (Observed) 048/317 | 18 049/316<br>Lunch [illegible] 12:00<br>cancel | 19 050/315 | 20 [illegible] |
| 23 054/311<br>Chani's party<br>To DC | 24 055/310<br>To school of [illegible]<br>To PO of check to Hoyt<br>$10,300 | 25 056/309<br>~~Jack Sheridan~~<br>~~RE VISIT [illegible] Latimer~~<br>~~966-7945~~<br>5:28<br>Return to Shady Grove<br>Hospital // BABY | 26 057/308 | 27 [illegible]<br>E day |

NOTES:

| Thursday | Friday | Saturday |
|---|---|---|
| 30 #38 in charity<br>David Lattimer<br>H- 782-6698<br>O- 577-4105<br>To Charleston | 31 ~~Dr. Marrocca~~<br>~~537-1088~~ 10 1/2<br>cancel | 1 032/333<br>[redacted] |
| 6 037/326 | 7 038/327 | 8 039/326<br>[redacted] |
| 13 044/321 | 14 Valentine's Day 045/320<br>~~cancel~~<br>~~Dr. Marrocca 9 1/2~~<br>~~537-1088~~<br>Trial Stop<br>To [illegible] | 15 046/319<br>To PC 11 1/2 |
| 20 051/314 | 21 052/313<br>To [illegible] | 22 053/312<br>[illegible] B'day<br>Chicago [illegible]<br>[illegible] |
| 27 Katie B'day 058/307 | 28 Dr. Marrocca 059/306<br>9 1/2 537-1088 | Katie<br>Home |

March 1986

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April 1986

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May 1986

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June 1986

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July 1986

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August 1986

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# March 1986

| Sunday | Monday | Tuesday | Wednesday | Thu |
|---|---|---|---|---|
| | | | | |
| 2 061/304<br>To [illegible] [illegible]<br>971-1500 | 3 062/303<br>11³⁰ o'Donnell/<br>[illegible] | 4 063/302 | 5 064/301<br>12⁰⁰ Out of Town<br>[illegible] | 6 [illegible] |
| 9 068/297 | 10 069/296<br>Get<br>[illegible] Rossetti [illegible] Goldfarb<br>[illegible] [illegible] 659-7540<br>Call [illegible] | 11 070/295<br>[illegible]<br>9³⁰ 578-1088<br>To [illegible]<br>[illegible]<br>[illegible] | 12 071/294 | 13 |
| 16 075/290 | 17 St. Patrick's Day 076/289 | 18 077/288<br>12⁰⁰<br>[illegible] | 19 078/287<br>9⁰⁰ Tom, Chi; Dick<br>at [illegible] again. Tom wants<br>Hoyt on [illegible] "good day"<br>[illegible] | 20 |
| 23 Palm Sunday 082/283 | 24 083/282<br>Clear [illegible]<br>[illegible] walking on [illegible]<br>31. | 25 084/281<br>Call [illegible]<br>[illegible] Did not [illegible] job | 26 085/280 | 27 |
| 30 Easter Sunday 089/276 | 31 090/275 | | | |

NOT

NOTES:

| day | Thursday | Friday | Saturday |
|---|---|---|---|
| | | | 1 060/305 |
| 64/301 | 6 Int'l Club 065/300<br>12:30 [illegible]<br>[illegible]<br>Tom [illegible] 8 30/p<br>[illegible] 938-1930 | 7 Dr. [illegible] 066/299<br>12:00/p<br>597-1088 | 8 [illegible] 067/298<br>[illegible]<br>[redacted] |
| 1/294 | 13 072/293 | 14 073/292 | 15 [illegible] 074/291 |
| 3/287 | 20 079/286 | 21 12:00 [illegible] 080/285<br>[illegible] | 22 081/284 |
| 280 | 27 086/279 | 28 Good Friday 087/278 | 29 11 30/a 088/277<br>Rio [illegible]<br>San Juan [illegible] |

April 1986

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May 1986

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June 1986

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July 1986

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August 1986

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September 1986

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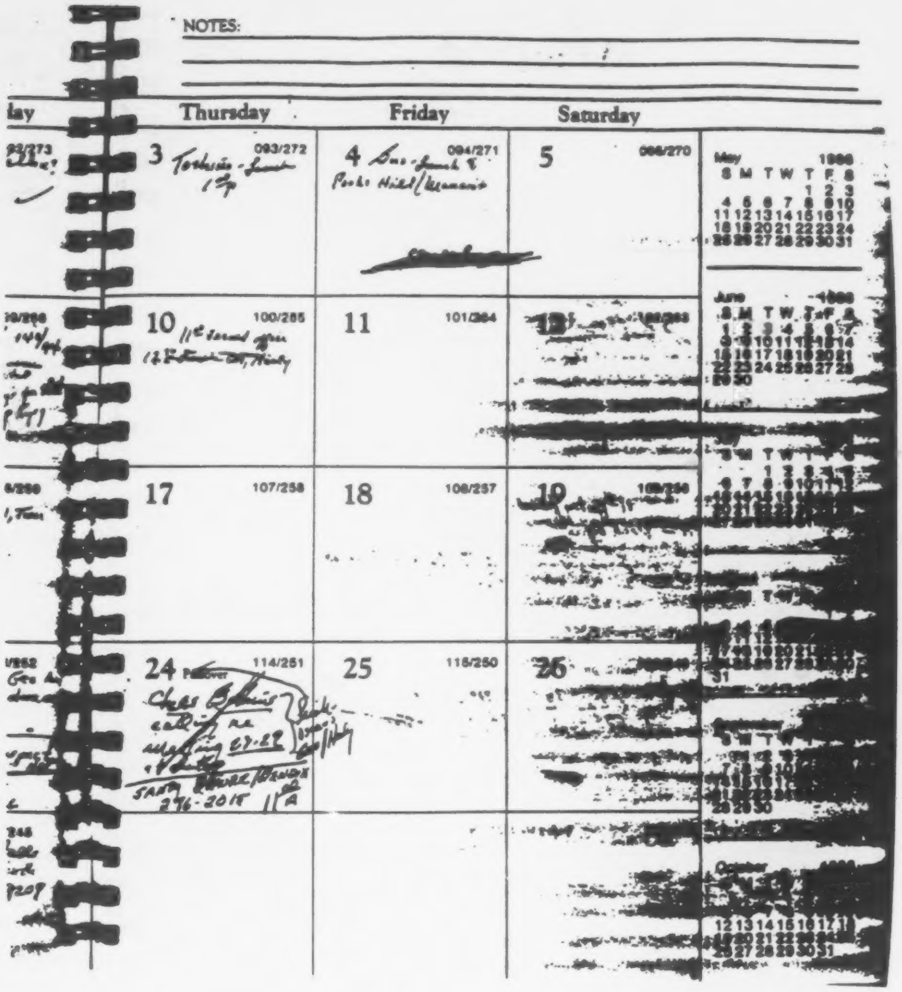
# April 1986

NOTES

| Sunday | Monday | Tuesday | Wednesday | Thurs |
|---|---|---|---|---|
| 30 To Gaithers Rd for [illegible] + copies | 31 | 1 091/274 ~~[illegible]~~ [illegible] cancelled<br>To P.O. + Library for copying | 2 092/273 [illegible]<br>Wash. [illegible] ✓ | 3 [illegible] |
| 6 096/269 To Gaithers Rd for [illegible] + copies | 7 097/268 ~~[illegible]~~<br>Cancel | 8 098/267 Gas [illegible] AC | 9 099/266 [illegible] 144/44<br>also, [illegible] at Hospital<br>copies of [illegible]<br>[redacted] | 10 [redacted] |
| 13 103/262 | 14 104/261<br>Tom Home | 15 105/260 [illegible]<br>Taxes Due<br>[illegible] 14 [illegible]/R24<br>[illegible] 1 1/2 lunch<br>I called Joan [illegible] 676-2860 [illegible] | 16 106/259 [illegible]<br>INT Club - [illegible], Tom [illegible] | 17 |
| 20 110/255 | 21 111/254 [illegible]<br>Patton [illegible] conference [illegible] 23 - [illegible] | 22 112/253 | 23 113/252 [illegible]<br>[illegible]<br>[illegible] Patton INT Club | [redacted] |
| 27 117/248 Tysons [illegible] copies | 28 118/247 Gr<br>11 INTEP, [illegible]<br>Patton, [illegible] Garrett<br>[illegible]<br>10 Kirk Koff | 29 119/246<br>10 Vitro Island/Don<br>685-9446<br>12 Second | 30 120/245<br>1 [illegible] Grant [illegible]<br>Rotary [illegible] 444-9209<br>703 [illegible] | [redacted] |



NOTES:

| Thursday | Friday | Saturday |
|---|---|---|
| 3 093/272<br>Tortorice - Lunch<br>1 pm | 4 094/271<br>Gus - Lunch &<br>Peeks Hill/[illegible] | 5 095/270 |
| 10 100/265<br>11c Second offer<br>12 Extension off, Harty | 11 101/264 | 12 [illegible] |
| 17 107/258 | 18 108/257 | 19 [illegible] |
| 24 Passover 114/251<br>Chas Bellis<br>calling re<br>meeting 27-29<br>[illegible]<br>SANTA [illegible]/WENDY<br>276-2015 11A | 25 115/250 | 26 [illegible] |
| | | |

| May | | | | | | 1986 |
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| June | | | | | | 1986 |
|---|---|---|---|---|---|---|
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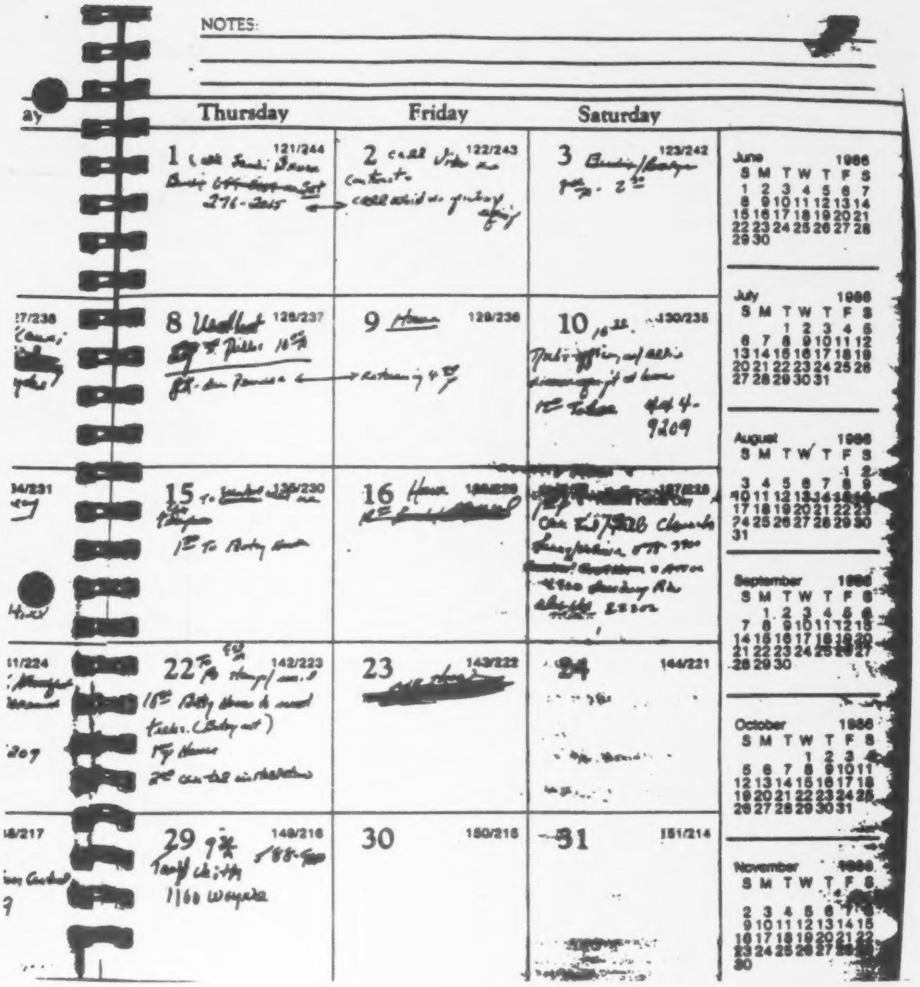
October 1986

# May 1986

NOTES:

| Sunday | Monday | Tuesday | Wednesday | Thursday |
|---|---|---|---|---|
| 27 | 28 | 29 | 30 | 1 121<br>Call [illegible]<br>[illegible] 276-2015 |
| 4 124/241<br>$10^{00}$A<br>To [illegible] | 5 125/240<br>$10^{00}$A [illegible]<br>Vitco 685-8446<br>9:45 7:00 [illegible] | 6 126/239 | 7 127/238<br>$10^{00}$ [illegible]<br>[redacted]<br>[illegible] - [illegible] | 8 128<br>[illegible] |
| 11 Mother's Day 131/234<br>[illegible] | 12 132/233<br>$11^{00}$ [illegible]<br>Dick office [redacted]<br>$6^{00}$p Dick, Tom, [illegible] | 13 133/232<br>$10^{30}$A<br>[illegible] - [illegible],<br>$2^{00}$ [illegible]<br>Penny 276-3100 | 14 134/231<br>Anniversary<br>Dinner - [illegible] | 15 [illegible] |
| 18 138/227 | 19 Victoria Day (Canada) 139/226<br>$11^{00}$A<br>[illegible] - 6 [illegible]<br>625-4016<br>$2^{00}$ Dick office [illegible] [redacted] | 20 140/225<br>$11^{00}$A [illegible] -<br>[illegible] [redacted] | 21 141/224<br>[illegible] $9^{30}$ [illegible]<br>[illegible]<br>$11^{00}$ [illegible]<br>[illegible] 7807 | 22 [illegible]<br>$10^{00}$ [illegible]<br>[illegible] |
| 25 145/220<br>$11^{00}$ To [illegible]<br>To $11^{00}$ [illegible] | 26 Memorial Day (Observed) 146/219 | 27 147/218 | 28 148/217<br>[illegible]<br>John [illegible] / [illegible]<br>[redacted] | 29 [illegible]<br>1160 [illegible] |



NOTES:

| ay | Thursday | Friday | Saturday |  |
|---|---|---|---|---|
|  | 1 Call Sandi Brown [illegible] 121/244<br>[illegible]<br>276-2015 | 2 Call [illegible] 122/243<br>contracts<br>Call [illegible] | 3 [illegible] 123/242<br>[illegible] 2⁰⁰ | June 1986 |
| 27/238 | 8 [illegible] 128/237<br>[illegible] 10⁰⁰<br>[illegible] | 9 Home 129/236<br>[illegible] | 10 10⁰⁰ 130/235<br>[illegible]<br>[illegible]<br>[illegible] 444-9209 | July 1986 |
| 34/231 | 15 To [illegible] 135/230<br>[illegible]<br>1⁰⁰ To Betty [illegible] | 16 Home [illegible]<br>[redacted] | [redacted]<br>Call [illegible] Clarence<br>[illegible]<br>[illegible]<br>[illegible] | August 1986 |
| 41/224<br>207 | 22 [illegible] 142/223<br>18⁰⁰ Betty home to [illegible]<br>[illegible] (Betty [illegible])<br>7 pm Home<br>2⁰⁰ [illegible] | 23 [redacted] 143/222 | 24 144/221 | September 1986 |
| 48/217 | 29 9¾ [illegible] 149/216<br>[illegible] 588-[illegible]<br>1160 Wayside | 30 150/215 | 31 151/214 | October 1986 |

June 1986
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July 1986
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August 1986
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September 1986
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October 1986
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November 1986
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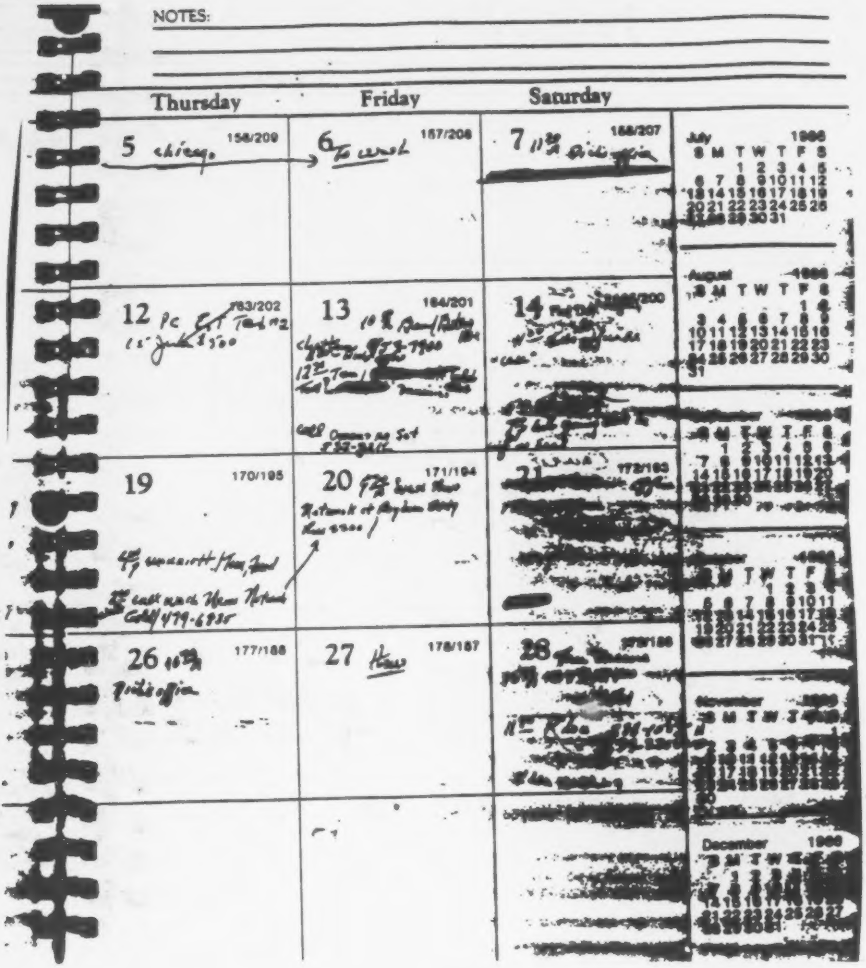
NOTES:

# June 1986

| Sunday | Monday | Tuesday | Wednesday | Thursday |
|---|---|---|---|---|
| 152/213 | 2 153/212<br>call whit no pickup | 3 154/211<br>go whit for Sunday<br>Pick office 12<br>lunch | 4 Dennis– Chic 155/210<br>Tom Carroll<br>938-7850<br>Midland<br>800-621-2360<br>#172 West Adams | 5 chicago 156/209 |
| 159/206 | 9 call/ [illegible] 160/205<br>Dick office / Tom Funk<br>" to [illegible] questions | 10 9:30 A [illegible] 161/204<br>537-1093<br>[redacted] | 11 [redacted] 162/203<br>12:00 [illegible] | 12 PC [illegible] 163/202<br>[illegible] 8:00<br>[redacted] |
| Father's Day 166/199 | 16 [illegible] 167/198<br>Ed meeting?<br>Randy<br>something the discuss<br>Heidi arriving? | 17 8:00 A Gov Kean 168/197<br>[illegible]<br>[redacted]<br>Dinner – [illegible] | 18 12:00 Hamaway 169/196<br>293-7600<br>12:00 Rib [illegible]<br>4-5 Gov King [illegible]<br>dinner / 1777 [illegible] | 19 [redacted]<br>4:00 P [illegible]<br>5:00 call with Gov [illegible] 479-6920 |
| 10:30 A 173/192<br>[illegible]<br>& credit union | 23 174/191<br>call Gov Kean no lunch 448-0178<br>David Marden [illegible]<br>lunch here at<br>307 Kentland Drive<br>944-9709 | 24 10:15 – [illegible] 175/190<br>~~[illegible]~~<br>E/W comp. calling<br>Rod Gresham<br>(317) 463-2571 | 25 9:00 P 176/189<br>[illegible]<br>10:30 Dick office<br>7:30 P [illegible] Dinner | 26 10:30 A 177/188<br>Dick office<br>[redacted] |
| 9:30 A 180/185<br>[illegible] called [illegible] | 30 181/184 | 1 [illegible] / Bill<br>[illegible] 12:00 P<br>Rachel 11:30 A | 2 | |



NOTES:

| Thursday | Friday | Saturday |
|---|---|---|
| 5 chicago 156/209 | 6 [illegible] 157/208 | 7 11 30 [illegible] 158/207 |
| 12 PC [illegible] Tank #2<br>15" Jack $300 163/202 | 13 10 [illegible] 164/201<br>[illegible] 573-7900<br>12 [illegible] Tom [illegible]<br>Call [illegible] Sat<br>[illegible] | 14 [illegible] 165/200 |
| 19 170/195<br>4 [illegible] Marriott [illegible]<br>5 call [illegible] Network<br>[illegible] 479-6935 | 20 [illegible] 171/194<br>Network at [illegible]<br>[illegible] $200 / | 21 [illegible] 172/193 |
| 26 10 [illegible] 177/188<br>Post office | 27 [illegible] 178/187 | 28 [illegible] 179/186 |

July 1986

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August 1986

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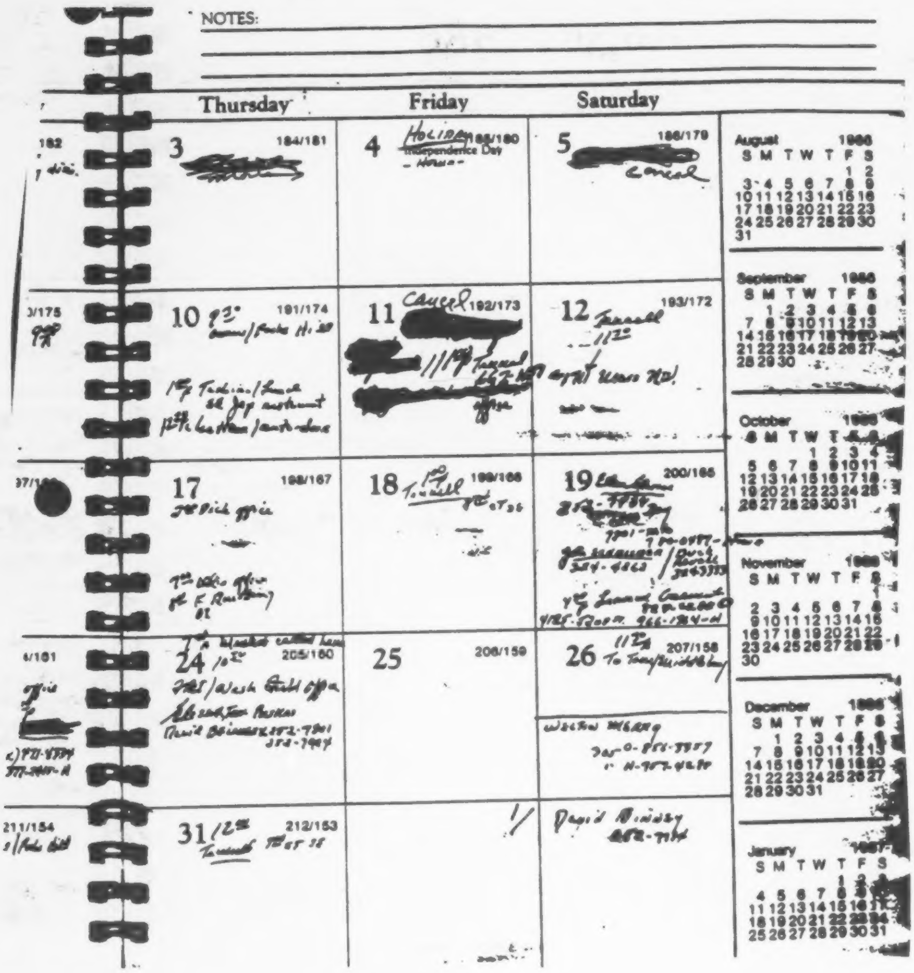
November 1986

December 1986

# July 1986

NOTES:

| Sunday | Monday | Tuesday | Wednesday | Thursda |
|---|---|---|---|---|
|  |  | 1 Canada Day (Canada) 182/183<br>Lunch [illegible] / Bill<br>Art Club 12[illegible]<br>Rachel 12[illegible] | 2 Dick to pick 183/182<br>up printout of [illegible] disc. | 3 [redacted] |
| 6 187/175 | 7 9:30/A [illegible] 188/177<br>Compassion – Pete Guion<br>424-7900 | 8 189/176<br>[illegible] | 9 Dr. Smyth 9:00 190/175<br>723-5560 | 10 9:30 [illegible]<br>[illegible] |
| 13 194/171 | 14 Cancel [redacted] 195/170<br>1st [illegible]<br>[redacted]<br>Need cover [illegible] | 15 Bob [illegible] 196/169<br>calling on [illegible]<br>6:00 [illegible]<br>[illegible] | 16 [illegible] 197/168<br>[illegible]<br>[illegible] | [redacted]<br>[illegible] |
| 20 201/164 | 21 10:30 call [illegible] 202/163<br>[illegible] 1:30<br>Pick – 4:30 | 22 [illegible] 203/162 | 23 204/161<br>[illegible]<br>cancel [illegible]<br>[redacted]<br>Bob [illegible] ([illegible]) [illegible]<br>[illegible] ([illegible]) [illegible] | 24 [illegible]<br>[illegible]<br>[illegible] |
| 27 208/157 | 28 209/156 | 29 Pick [illegible] | 30 Lunch / [illegible] / [illegible] 211/154 | 31 [illegible] |



NOTES:

| | Thursday | Friday | Saturday |
|---|---|---|---|
| 182<br>[illegible] | 3 184/181<br>[redacted] | 4 Holiday 185/180<br>~~Independence Day~~<br>– [illegible] – | 5 186/179<br>[redacted]<br>Cancel |
| /175<br>[illegible] | 10 9:30 191/174<br>[illegible]<br>1:00 [illegible]<br>[illegible]<br>12:00 [illegible] | 11 Cancel 192/173<br>[redacted]<br>11/1:00 Tunnell [illegible]<br>office | 12 Tunnell 193/172<br>11:00<br>[illegible] |
| 37/1 | 17 198/167<br>[illegible] office<br>7:00 [illegible] office<br>[illegible] | 18 1:00 Tunnell 199/166<br>[illegible] | 19 200/165<br>[illegible]<br>[illegible]<br>[illegible]<br>[illegible] |
| /161<br>office<br>[redacted]<br>[illegible] | [illegible]<br>24 10:30 205/160<br>[illegible] office<br>[illegible]<br>[illegible] | 25 206/159 | 26 11:30 207/158<br>To [illegible]<br>[illegible]<br>[illegible] |
| 211/154<br>[illegible] | 31 12:00 212/153<br>Tunnell [illegible] | / | David [illegible]<br>[illegible] |

August 1986
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September 1986
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October 1986
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November 1986
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December 1986
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January 1987
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# August 1986

| Sunday | Monday | Tuesday | Wednesday | Thursd |
|---|---|---|---|---|
| 27/ | 28/ | 29/ | 30/ | 31/ |
| 3 215/150<br>[redacted] | 4 216/148<br>Call Woody<br>[illegible]<br>[illegible] - [illegible]<br>[illegible] | 5 217/146<br>~~[illegible]~~<br>[illegible]<br>Call [illegible]<br>[redacted] | 6 218/147<br>Call<br>[illegible]<br>[illegible] | 7<br>[redacted] |
| 10 222/143<br>[illegible]<br>[illegible] | 11 223/142<br>[illegible] [redacted]<br>[illegible] at TSRI<br>([illegible]) | 12 224/141<br>[illegible]<br>[redacted] | 13 225/140<br>[illegible]<br>[redacted] | [redacted] |
| 17 229/136 | 18 230/135<br>11:00 [illegible] office | 19 231/134<br>Call [illegible] at<br>Bank 1:15 | 20 232/133<br>[illegible] Kenny, [illegible] | 21<br>[redacted] |
| 24 236/129<br>31 243/122 | 25 237/128<br>~~[illegible] drivers license~~ | 26 238/127<br>Call [illegible]<br>Dr. [illegible] [illegible]<br>[redacted] | 27 239/126 | 28<br>[redacted] |

NOTES:

NOTES:

| Thursday | Friday | Saturday |
|---|---|---|
| 7/ | 1 213/152 | 2 214/151<br>Counsel [redacted] |
| 7 219/146 | 8 220/145<br>$10^{30}$ Dick- [redacted] | 9 221/144<br>[redacted] |
| 14 226/139<br>$10^{00}$ [illegible]<br>[illegible] Science-West Center | 15 227/138<br>[illegible]<br>call Dr [illegible] on apt 9 [illegible]<br>724-5568 | 16 [illegible] 228/137<br>Tom Kessler, [illegible]<br>DC [illegible] Cap<br>676-[illegible] |
| 21 233/132<br>$10^{30}$ Tom Gorman<br>659-3350<br>$12^{00}$ Owen, Kenny<br>Int Club | 22 234/131 | 23 235/130<br>[illegible] Howard<br>678-6607 |
| 28 240/125 | 29 241/124<br>DC Est. Tax #3<br>due 15 Sept — $800<br>[redacted] | 30 242/123 |

September 1986

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October 1986

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November 1986

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December 1986

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January 1987

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February 1987

| S | M | T | W | T | F | [illegible] |
|---|---|---|---|---|---|---|
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# September 1986

NOTES:

| Sunday | Monday | Tuesday | Wednesday | Thursday |
|---|---|---|---|---|
| | 1 Labor Day 244/121<br>$12^{00}$ - Dick's office<br>[illegible] | 2 Re[illegible] 245/120<br>[illegible]<br>[illegible] - $11^{30}$<br>Dick - $2^{30}$<br>10A - 7P<br>Call [illegible] 383-[illegible] | 3 246/119 | 4 $12^{00}$ [illegible] 247<br>INT CLUB |
| 250/115<br>[illegible] Beach | 8 251/114 | 9 252/113 | 10 call 253/112<br>$1^{00}$ [illegible]<br>[illegible] [redacted] | 11 PC [illegible] 254/<br>15 [illegible] [redacted] |
| 257/108<br>Beach | 15 258/107 | 16 259/106 | 17 260/105 | 18 261/1 |
| 264/101<br>[illegible] via [illegible]<br>1-3101<br>[illegible]<br>798-8911 | 22 $1^{30}$ Lunch Cus 265/100<br>Poole Hill<br>To [illegible]<br>[illegible]<br>[illegible] 4404<br>no [illegible] go [illegible] Beach | 23 266/099 | 24 267/098 | 25 268/0 |
| 271/094 | 29 272/093 | 30 273/092<br>[illegible]<br>10 A/C<br>IRENE 660-4409?<br>Betty Cardoso | 1 | 2 |

NOTES:

| Thursday | Friday | Saturday |
|---|---|---|
| 4 247/118<br>12⁰⁰ [illegible], [illegible]<br>Int [illegible] | 5 248/117<br>(302) 5[illegible]-9738<br>[illegible] | 6 249/116 |
| 11 254/111<br>PC [illegible] #3<br>15 [illegible] | 12 255/110 | 13 256/109 |
| 18 261/104 | 19 262/103 | 20 263/102 |
| 25 268/097 | 26 269/096<br>[illegible]<br>[illegible] – [illegible]<br>[illegible] | 27 270/095 |
| 2 | | |

October 1986

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November 1986

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December 1986

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January 1987

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February 1987

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March 1987

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| 15 | 16 | 17 | 18 | 19 | 20 | 21 |
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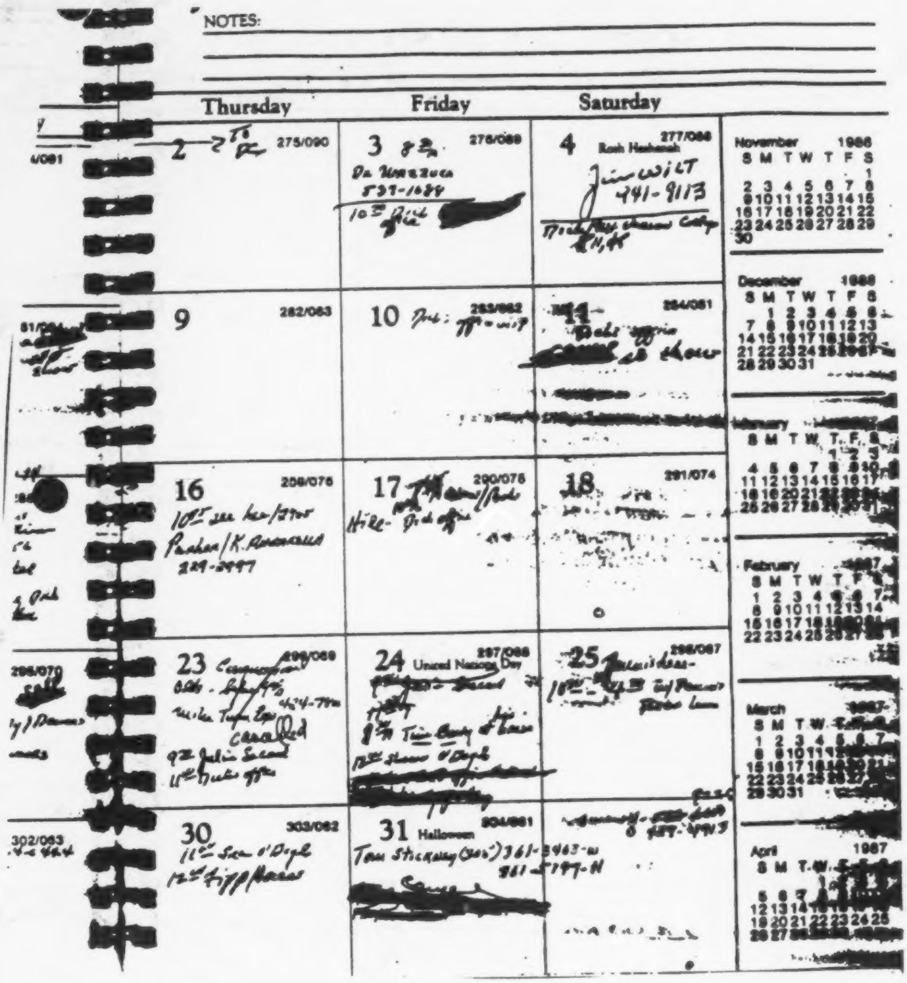
| 29 | 30 | 31 | | | | |

# October 1986

NOTES:

| Sunday | Monday | Tuesday | Wednesday | Thursday |
|---|---|---|---|---|
| ~~28~~ | ~~29~~ | 30 To [illegible] ←<br>[illegible]<br>[illegible] 660-[illegible]? | 1 274/091 | 2 → 2 [illegible] 275 |
| 5 278/087 | 6 [illegible] 279/086<br>[illegible]<br>9 [illegible] | 7 [illegible] 280/085<br>[illegible]<br>[illegible]<br>9 [illegible] | 8 [illegible] 281/0 | 9 [redacted]<br>[redacted] |
| 12 285/080 | 13 Columbus Day (Observed) Thanksgiving Day (Canada) Yom Kippur 286/079<br>Dick's office<br>[illegible] | 14 7 [illegible] 287/078<br>Breakfast / [illegible]<br>9 meeting [illegible]<br>[illegible] [redacted] | [illegible]<br>15 288/077<br>[illegible]<br>~~[illegible]~~<br>5 [illegible] 5-9 [illegible]<br>[illegible]<br>734-8[illegible]<br>10 [illegible] Dick<br>[illegible] | 16 [illegible]<br>10 [illegible]<br>[illegible]<br>289-8997 |
| 19 292/073 | 20 293/072<br>5 Tim Brady<br>2872 [illegible]<br>20002<br>429-0773 | 21 294/071 | 22 295/070<br>9 [illegible] [redacted]<br>10 Tim Brady / Dinner<br>12 [illegible] | 23 [illegible]<br>[illegible]<br>[illegible]<br>[illegible]<br>9 [illegible]<br>11 Dick's office |
| 26 [illegible] 299/066<br>[illegible]<br>[illegible]<br>941-6947 | 27 300/065<br>10 Dick's office<br>2 [illegible] | 28 [illegible] 301/064<br>7 Rob / [illegible] [redacted]<br>11 [illegible]<br>[illegible]<br>654-6860<br>[illegible] | 29 302/063<br>5 [illegible]<br>9 [illegible]<br>10 [illegible]<br>12 [illegible]<br>6 [illegible] | 30 303/0<br>11 [illegible]<br>12 [illegible] |



NOTES:

| Thursday | Friday | Saturday |
|---|---|---|
| 2 [illegible] 275/090 | 3 8 pm 276/089<br>Dr. Mazzuca<br>537-1084<br>10 Dick office [redacted] | 4 Rosh Hashanah 277/088<br>Jim Wilt<br>441-9113<br>[illegible] shower College [illegible] |
| 9 282/083 | 10 [illegible] 283/082 | 11 284/081<br>Dale's office<br>[redacted] to shower |
| 16 289/076<br>10 see [illegible]<br>Parker / K. [illegible]<br>229-2997 | 17 [illegible] 290/075<br>Hill - Dick office | 18 291/074 |
| 23 [illegible] 296/069<br>[illegible] 424-7700<br>Mike [illegible]<br>Cancelled<br>9 Julie [illegible]<br>11 Dale's office | 24 United Nations Day 297/068<br>[illegible]<br>8 Tim [illegible]<br>12 shower O'Doyle<br>[redacted] | 25 [illegible] 298/067<br>10 [illegible] |
| 30 303/062<br>11 Sean O'Doyle<br>12 Tripp [illegible] | 31 Halloween 304/061<br>Tom Stickney ([illegible]) 361-3463-w<br>361-5197-H<br>[redacted] | [illegible] 457-4915 |

November 1986
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December 1986
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January
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February 1987
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March 1987
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April 1987
S M T W
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NOTES:

# November 1986

| Sunday | Monday | Tuesday | Wednesday | Thursd |
|---|---|---|---|---|
| | | | | |
| 2 306/059 [illegible]<br>[redacted] | 3 307/058 Home-sick | 4 Election Day 308/057 | 5 309/056 7:30 [illegible] | 6 |
| 9 313/052 | 10 314/051 10:00 [illegible]<br>[illegible]<br>11:30 [illegible]<br>12:30 [illegible] | 11 Veterans Day 315/050 | 12 316/049 9:30 [illegible]<br>12:30 [illegible] | 13 |
| 16 320/045 [redacted]<br>[redacted] Rotie Leave? | 17 321/044<br>10:30 [illegible] [redacted]<br>11:00 [illegible] [redacted] | 18 322/043 [illegible] [redacted]<br>[illegible] | 19 323/042 | 20 |
| 23 327/038<br>30 334/031 | 24 328/037<br>← To Costa Rica | 25 329/036 | 26 330/035 | 27 Thank<br>[illegible] |

NOTES:

| Thursday | Friday | Saturday |
|---|---|---|
| | | 1 305/060 |
| 6 310/055 | 7 311/054 | 8 Julia wedding 312/053 |
| 13 Tel co Wen? 317/048 | 14 [redacted] 318/047<br>[redacted]<br>10$^{30}$ Dick gets [redacted]<br>7$^{pm}$ [illegible] Club/Party | 15 319/046 |
| 20 324/041 | 21 325/040 | 22 326/039 |
| 27 Thanksgiving Day 331/034<br>Puntarenas | 28 332/033 | 29 333/032<br>To DC → |

December 1986

| S | M | T | W | T | F | S |
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January 1987

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February 1987

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March 1987

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April 1987

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May 1987

| S | M | T | W | T | F | S |
|---|---|---|---|---|---|---|
| | | | | | 1 | [illegible] |
| 3 | 4 | 5 | 6 | 7 | 8 | [illegible] |
| 10 | 11 | 12 | 13 | 14 | 15 | 16 |
| 17 | 18 | 19 | 20 | 21 | 22 | 23 |
| 24 | 25 | 26 | 27 | 28 | 29 | 30 |
| 31 | | | | | | |

# December 1986

NOTES:

| Sunday | Monday | Tuesday | Wednesday | Thursd |
|---|---|---|---|---|
| | 1 335/030<br>10^15 Dick - Breakfast<br>12^30 Tom | 2 336/029<br>12^30 Tea / Dick Lunch<br>[redacted] | 3 337/028 | 4 |
| 7 341/024 | 8 342/023<br>Dick 5pm | 9 343/022 | 10 344/021<br>[illegible] Memo<br>Tim [illegible] 364-8895<br>[illegible] | 11 [illegible] |
| 14 348/017 | 15 349/016 | 16 350/015 | 17 351/014 | 18 [illegible] |
| 21 355/010 | 22 356/009 | 23 357/008 | 24 358/007 | 25 Christ |
| 28 362/003 | 29 363/002 | 30 364/001 | 31 365/000 | PC Ex<br>#4 15<br>[illegible] |

NOTES:

| Thursday | Friday | Saturday |
|---|---|---|
| 4 338/027 | 5 339/026 [illegible] | ~~6~~ 340/025 [illegible] |
| 11 345/020 [illegible] "Did [illegible]?" [illegible] | 12 346/019 | 13 347/018 |
| 18 352/013 [illegible] | 19 353/012 | ~~20~~ 354/011 |
| 25 Christmas Day 359/006 | 26 360/005 | 27 |
| PC E&T Tax<br>#4 15 Jan '87<br>[illegible] | | Ilse 7 6-9p<br>[illegible] |

January 1987

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February 1987

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March 1987

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April 1987

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May 1987

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June 1987

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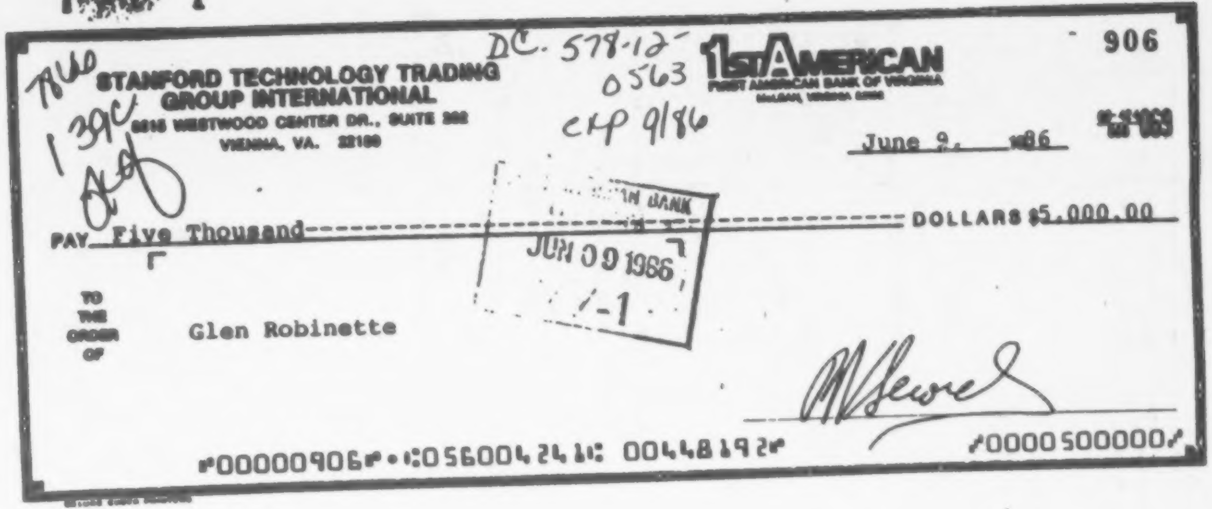
EXHIBIT GAR-2A



906

STANFORD TECHNOLOGY TRADING
GROUP INTERNATIONAL
8615 WESTWOOD CENTER DR., SUITE 302
VIENNA, VA. 22180

1ST AMERICAN
FIRST AMERICAN BANK OF VIRGINIA
McLEAN, VIRGINIA 22102

June 9, 1986

PAY Five Thousand DOLLARS $5,000.00

TO THE ORDER OF Glen Robinette

...AN BANK
JUN 09 1986
1-1

DC. 578-12
0563
ckp 9/86

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EXHIBIT
GAR-2A

Allen Robinette

STG 8565

24
PROCESSED
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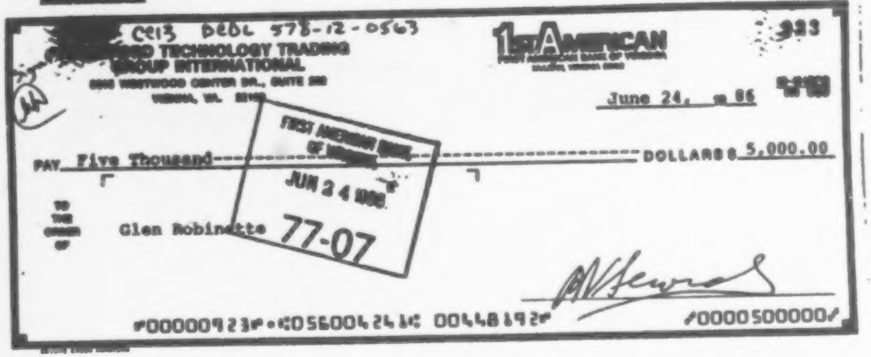
## EXHIBIT GAR-2B



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TECHNOLOGY TRADING
GROUP INTERNATIONAL
[illegible] WESTWOOD CENTER DR., SUITE [illegible]
VIENNA, VA. [illegible]

1st AMERICAN

933

June 24, 86

PAY Five Thousand DOLLARS $ 5,000.00

TO THE ORDER OF Glen Robinette

FIRST AMERICAN BANK OF VIRGINIA
JUN 24 1986
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FIRST AMERICAN
BANK OF VIRGINIA
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## EXHIBIT GAR-2C

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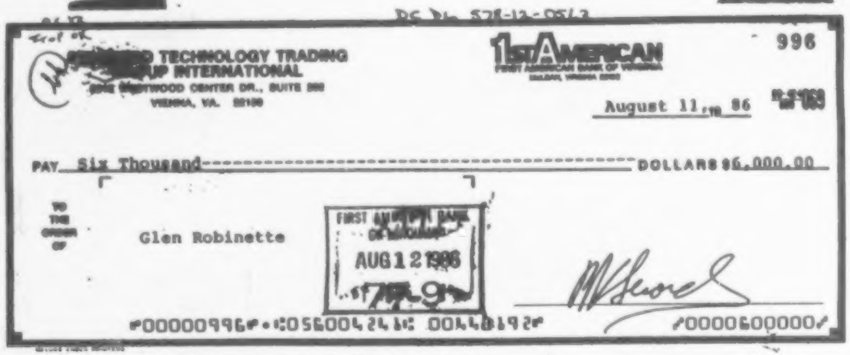


DC DL 578-12-9512

[illegible]D TECHNOLOGY TRADING
[illegible]UP INTERNATIONAL
[illegible] WOOD CENTER DR., SUITE [illegible]
VIENNA, VA. 22180

1st AMERICAN
FIRST AMERICAN BANK OF VIRGINIA

996

August 11, 19 86

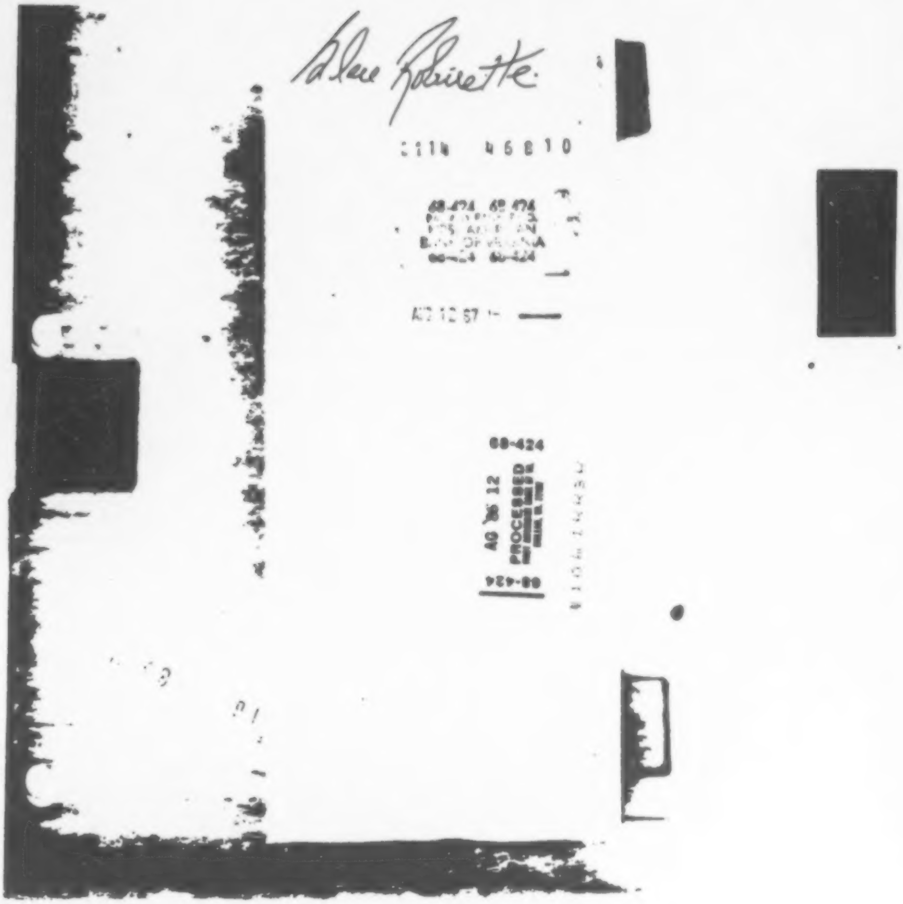
PAY Six Thousand---------------------------------------- DOLLARS $6,000.00

TO THE ORDER OF Glen Robinette

FIRST AMERICAN BANK OF VIRGINIA
AUG 12 1986

⑈00000996⑈ ⑆056004246⑆ 00448192⑈ ⑈0000600000⑈

EXHIBIT



Blair Robinette

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FIRST AMERICAN
BANK OF VIRGINIA
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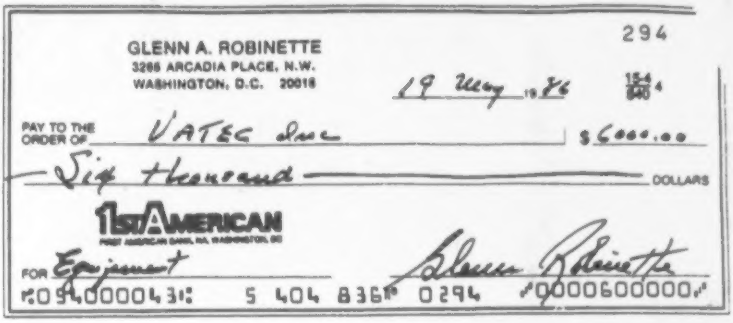
## EXHIBIT GAR-3



294

GLENN A. ROBINETTE
3265 ARCADIA PLACE, N.W.
WASHINGTON, D.C. 20016

19 May 19 86

15-4/540 4

PAY TO THE ORDER OF VATEC Inc $ 6000.00

Six thousand DOLLARS

1STAMERICAN
FIRST AMERICAN BANK, NA, WASHINGTON, DC

FOR Equipment

Glenn Robinette

⑆054000043⑆ 5 404 836⑈ 0294 ⑈0000600000⑈

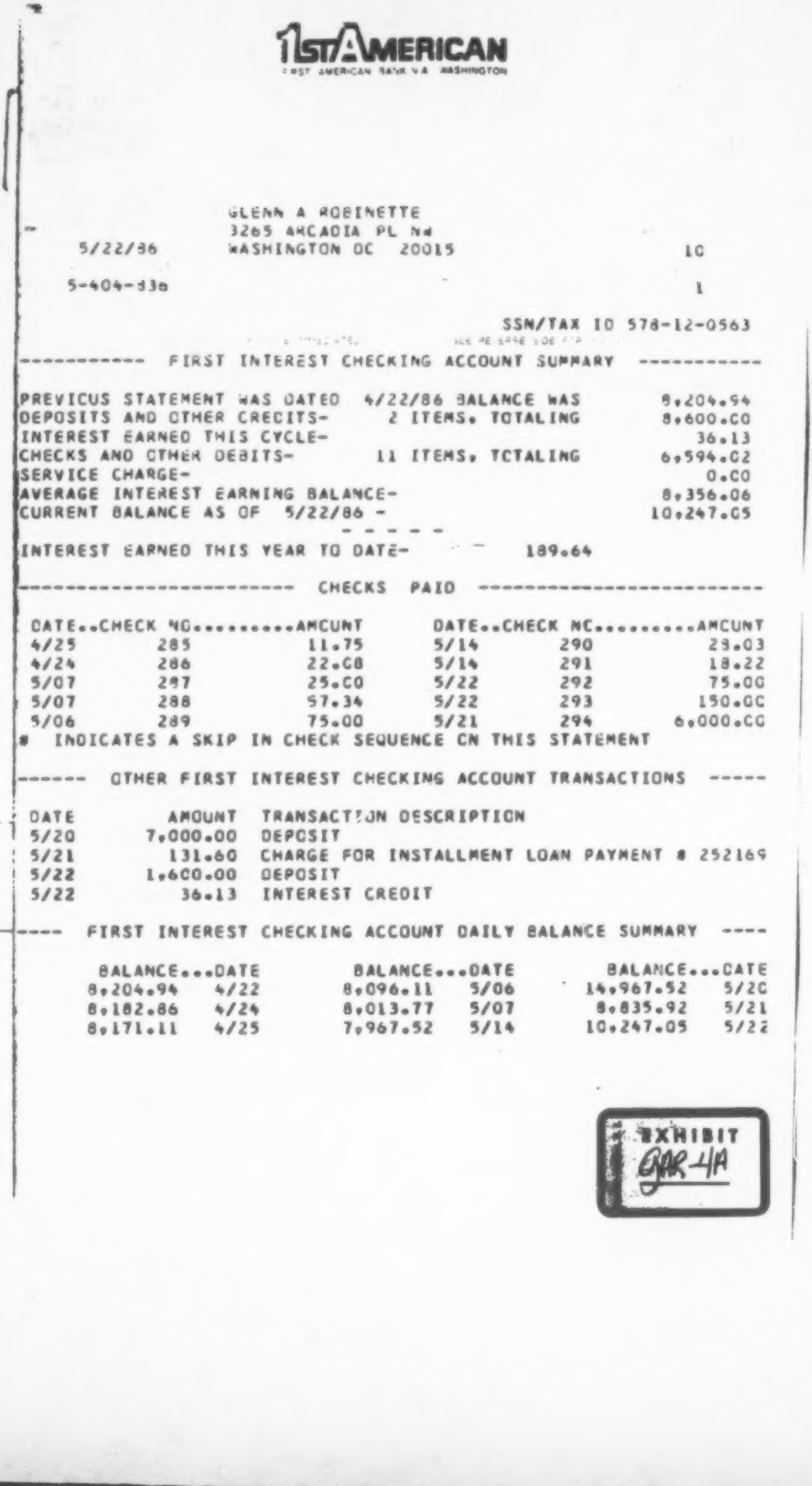
EXHIBIT
GAR-3

FOR DEPOSIT ONLY

MERCANTILE - SAFE DEP.
& TRUST ... LTD., MD.

[redacted]

## Exhibit GAR-4A



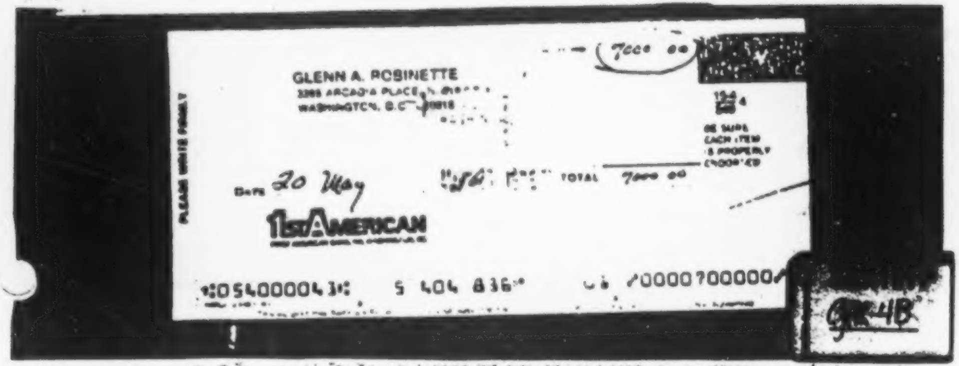
1st AMERICAN

FIRST AMERICAN BANK N.A. WASHINGTON

```
                 GLENN A ROBINETTE
                 3265 ARCADIA PL NW
    5/22/86      WASHINGTON DC  20015                      10

   5-404-338                                                1

                                       SSN/TAX ID 578-12-0563

----------- FIRST INTEREST CHECKING ACCOUNT SUMMARY -----------

PREVIOUS STATEMENT WAS DATED  4/22/86 BALANCE WAS        8,204.94
DEPOSITS AND OTHER CREDITS-     2 ITEMS, TOTALING        8,600.00
INTEREST EARNED THIS CYCLE-                                 36.13
CHECKS AND OTHER DEBITS-       11 ITEMS, TOTALING        6,594.02
SERVICE CHARGE-                                              0.00
AVERAGE INTEREST EARNING BALANCE-                        8,356.06
CURRENT BALANCE AS OF  5/22/86 -                        10,247.05
                                 - - - - -
INTEREST EARNED THIS YEAR TO DATE-             189.64

----------------------- CHECKS  PAID -----------------------

 DATE..CHECK NO..........AMOUNT      DATE..CHECK NO..........AMOUNT
 4/25       285           11.75      5/14       290           23.03
 4/24       286           22.08      5/14       291           18.22
 5/07       287           25.00      5/22       292           75.00
 5/07       288           57.34      5/22       293          150.00
 5/06       289           75.00      5/21       294        6,000.00
#  INDICATES A SKIP IN CHECK SEQUENCE ON THIS STATEMENT

------ OTHER FIRST INTEREST CHECKING ACCOUNT TRANSACTIONS -----

 DATE         AMOUNT  TRANSACTION DESCRIPTION
 5/20       7,000.00  DEPOSIT
 5/21         131.60  CHARGE FOR INSTALLMENT LOAN PAYMENT # 252169
 5/22       1,600.00  DEPOSIT
 5/22          36.13  INTEREST CREDIT

---- FIRST INTEREST CHECKING ACCOUNT DAILY BALANCE SUMMARY ----

     BALANCE...DATE          BALANCE...DATE          BALANCE...DATE
    8,204.94    4/22        8,096.11    5/06       14,967.52    5/20
    8,182.86    4/24        8,013.77    5/07        8,835.92    5/21
    8,171.11    4/25        7,967.52    5/14       10,247.05    5/22
```

EXHIBIT
GAR-4A

# Exhibit GAR-4B



7000 00

GLENN A. ROBINETTE
ARCADIA PLACE
WASHINGTON, D.C.

PLEASE WRITE FIRMLY

BE SURE
EACH ITEM
IS PROPERLY
ENDORSED

Date 20 May

TOTAL 7000 00

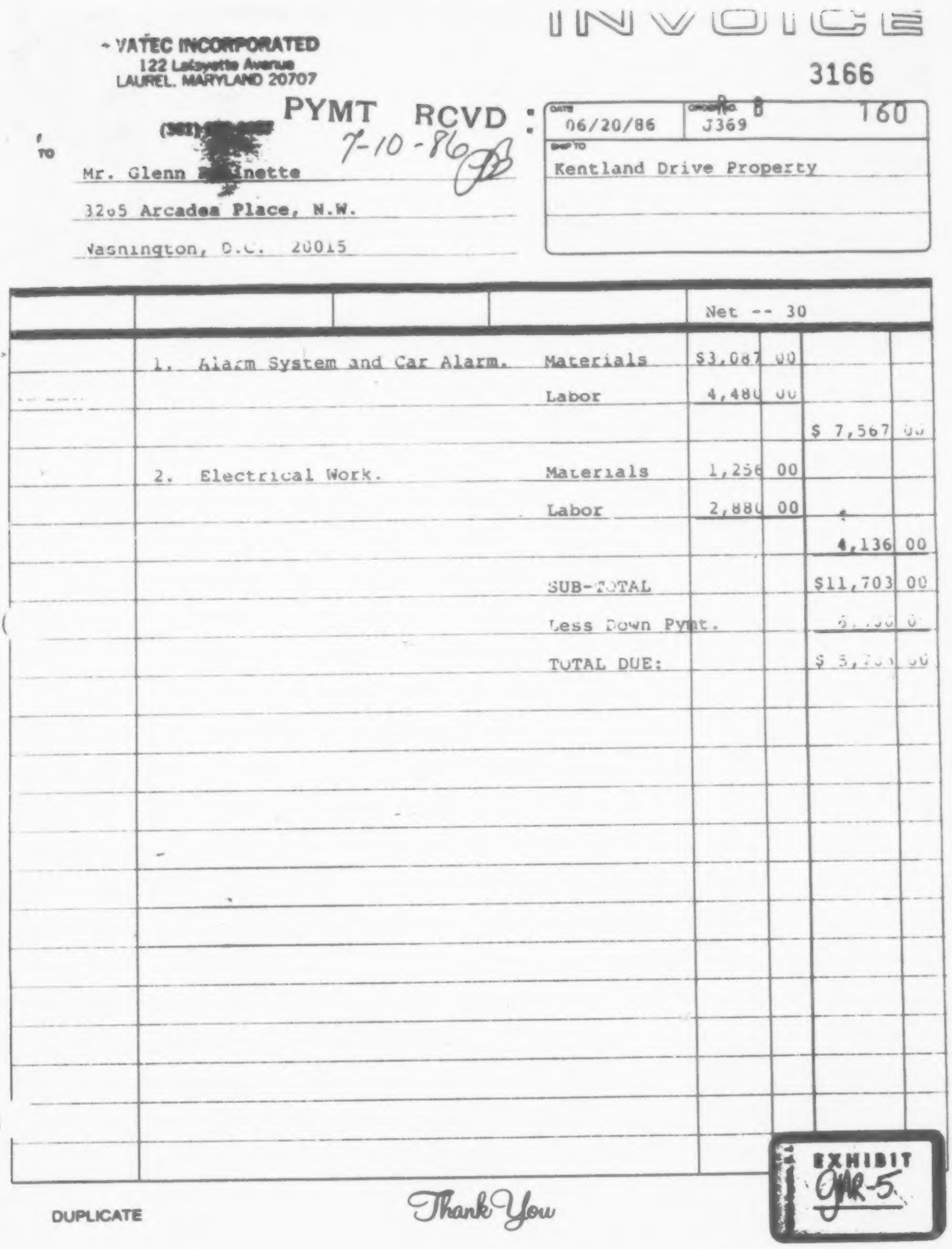
1stAMERICAN

⑆054000043⑆ 5 404 836⑈ 0000700000

GAR-4B

Ex. GR-4B

## EXHIBIT GAR-5



INVOICE

VATEC INCORPORATED
122 Lafayette Avenue
LAUREL, MARYLAND 20707
(301)[redacted]

3166

PYMT RCVD : 7-10-86

DATE 06/20/86 | ORDER NO. J369 | 160

SHIP TO Kentland Drive Property

TO
Mr. Glenn [redacted]inette
3205 Arcadea Place, N.W.
Washington, D.C. 20015

| | | | | | | |
|---|---|---|---|---|---|---|
| | | | Net -- 30 | | | |
| 1. Alarm System and Car Alarm. | Materials | $3,087 | 00 | | |
| | Labor | 4,480 | 00 | | |
| | | | | $ 7,567 | 00 |
| 2. Electrical Work. | Materials | 1,256 | 00 | | |
| | Labor | 2,880 | 00 | | |
| | | | | 4,136 | 00 |
| | SUB-TOTAL | | | $11,703 | 00 |
| | Less Down Pymt. | | | [illegible] | [illegible] |
| | TOTAL DUE: | | | $ 5,[illegible] | 00 |

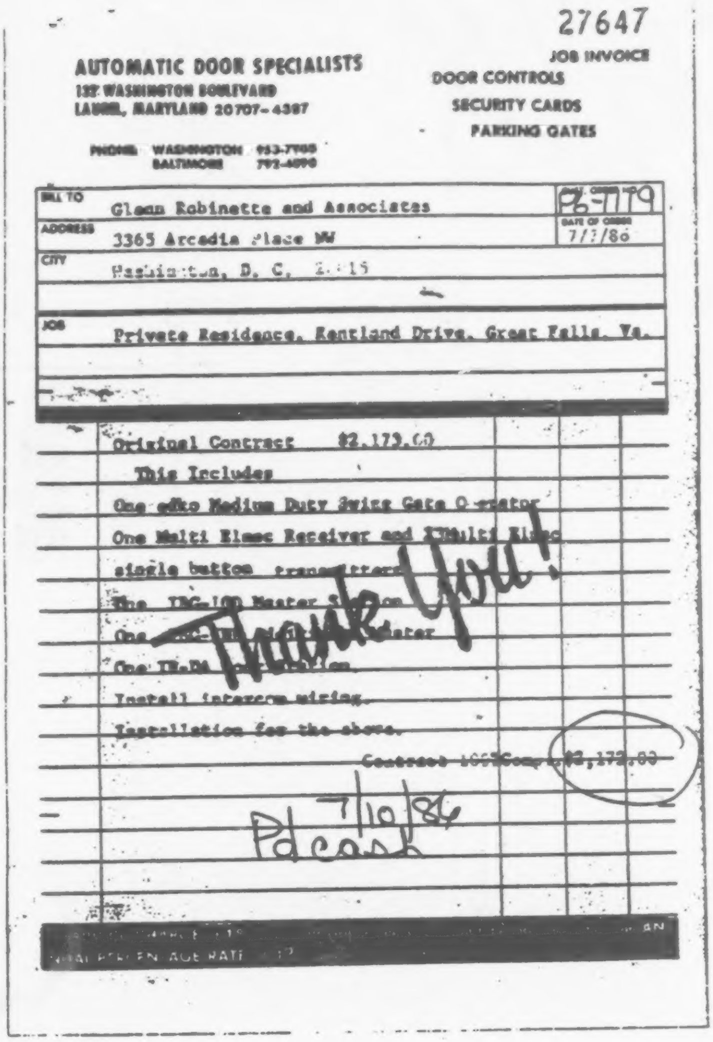
DUPLICATE

Thank You

EXHIBIT GAR-5

## Exhibit GAR-6

WELT.
3



27647
JOB INVOICE

**AUTOMATIC DOOR SPECIALISTS**
132 WASHINGTON BOULEVARD
LAUREL, MARYLAND 20707-4387

PHONE: WASHINGTON 953-7900
BALTIMORE 792-4090

DOOR CONTROLS
SECURITY CARDS
PARKING GATES

BILL TO: Glenn Robinette and Associates
CUST. ORDER NO.: P6-7179
ADDRESS: 3365 Arcadia Place NW
DATE OF ORDER: 7/7/86
CITY: Washington, D. C. 20015
JOB: Private Residence, Kentland Drive, Great Falls, Va.

Original Contract $2,173.00
This Includes
One Elko Medium Duty Swing Gate Operator
One Multi Elmac Receiver and 2 Multi Elmac
single button transmitters
The TRC-100 Master Station
One [illegible] Master
One TR-DA [illegible]
Install intercom wiring.
Installation for the above.
Contract 100% Comp. $2,173.00

Thank You!

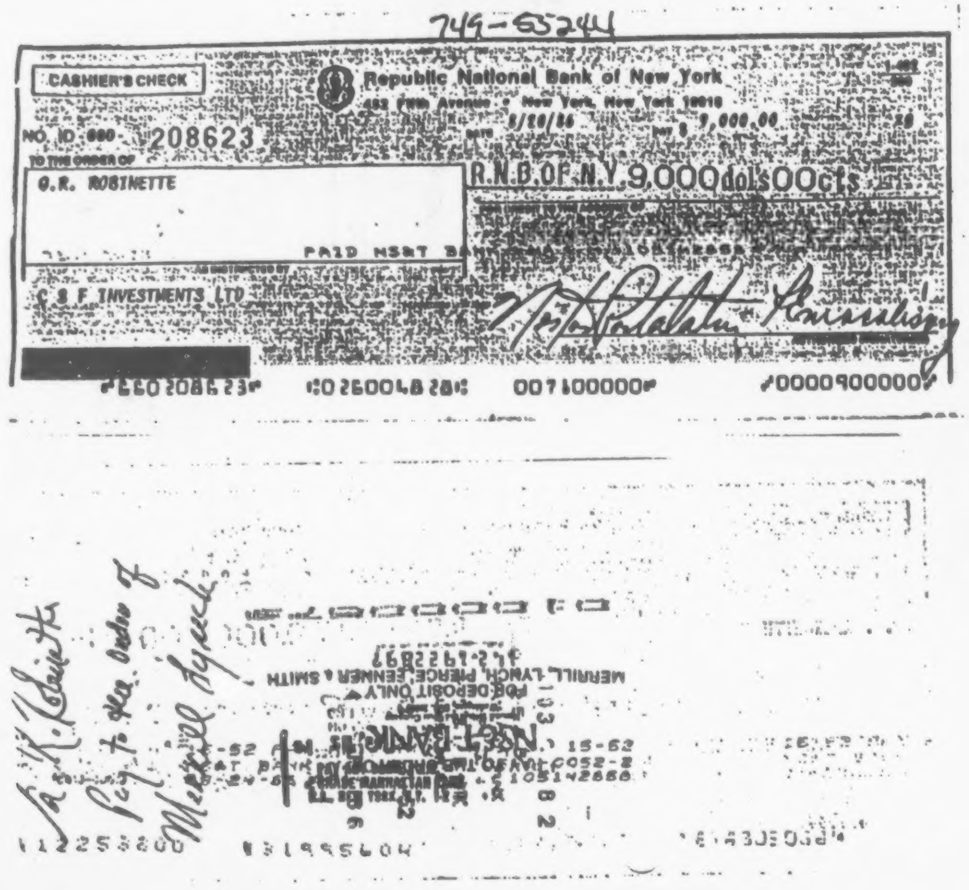
7/10/86
Pd cash

[illegible] PERCENTAGE RATE [illegible]

EXHIBIT
GAR-6
4-7-87 TRB

## Exhibit GAR–7A

[redacted]



749-65244

CASHIER'S CHECK

Republic National Bank of New York
452 Fifth Avenue • New York, New York 10018

NO. ID 000 208623

DATE 5/20/86

PAY $ 9,000.00

TO THE ORDER OF
G.R. ROBINETTE

R.N.B.OF N.Y. 9,000dols00cts

PAID NS&T BANK

AS INSTRUCTED BY
C & F INVESTMENTS LTD

[redacted]

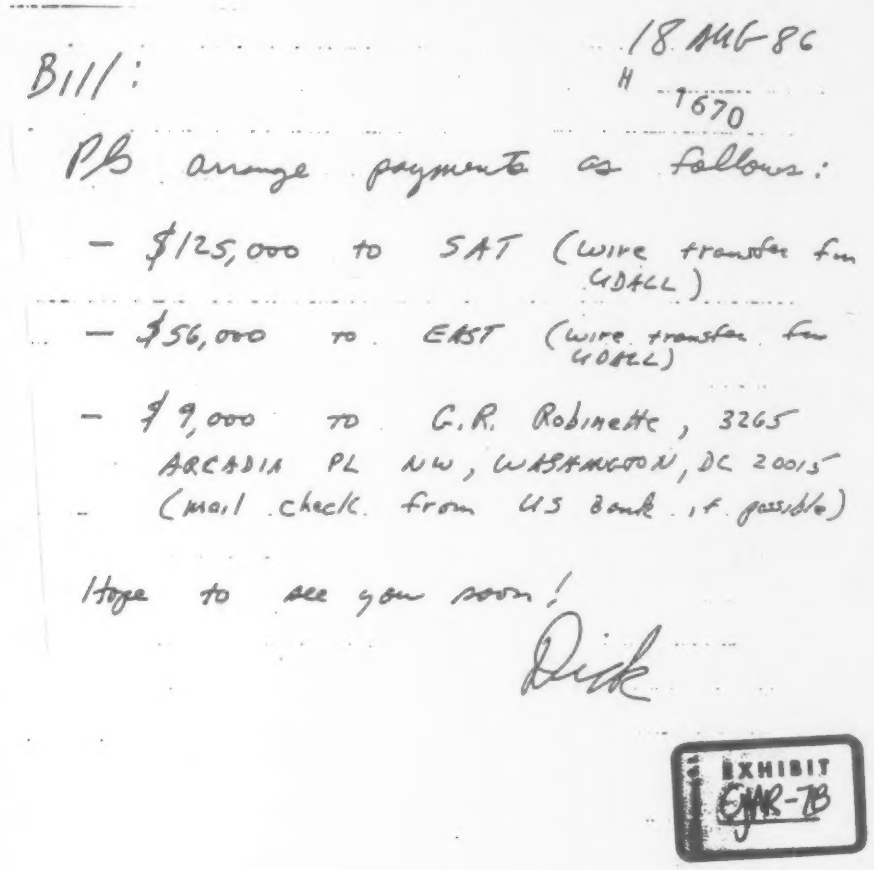
⑈660208623⑈ ⑆026004828⑆ 007100000⑈ ⑈0000900000⑈

G.R. Robinette
Pay to the Order of
Merrill Lynch

NS&T BANK

FOR DEPOSIT ONLY
MERRILL, LYNCH, PIERCE, FENNER & SMITH
142-1922897

## Exhibit GAR-7B



18 AUG 86

Bill:

H 1670

Pls arrange payments as follows:

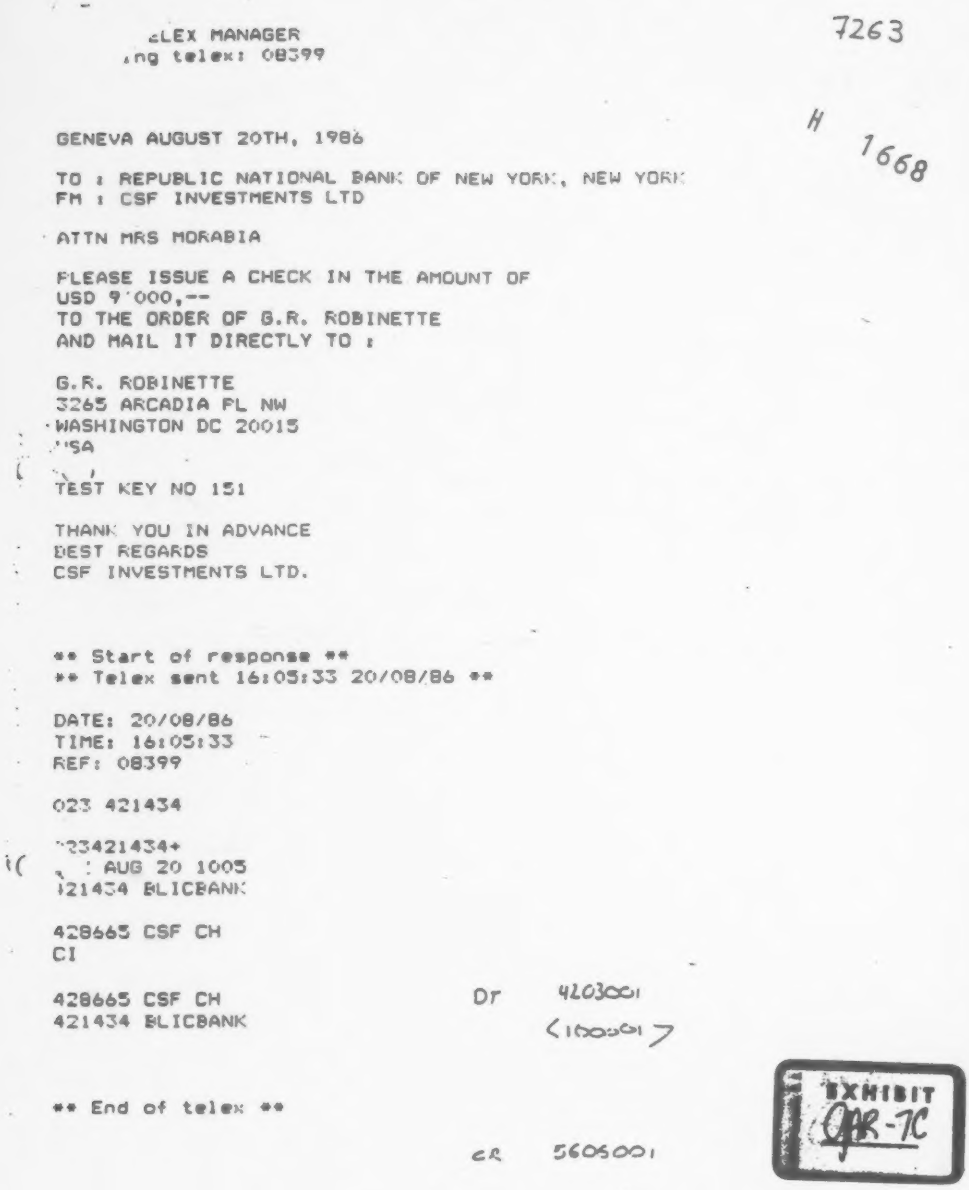
- $125,000 to SAT (wire transfer fm GDALL)
- $56,000 TO EAST (wire transfer fm GDBLL)
- $9,000 TO G.R. Robinette, 3265 ARCADIA PL NW, WASHINGTON, DC 20015 (mail check from US Bank if possible)

Hope to see you soon!

Dick

EXHIBIT GAR-7B

## EXHIBIT GAR-7C



LEX MANAGER
ng telex: 08399

7263

GENEVA AUGUST 20TH, 1986

H 1668

TO : REPUBLIC NATIONAL BANK OF NEW YORK, NEW YORK
FM : CSF INVESTMENTS LTD

ATTN MRS MORABIA

PLEASE ISSUE A CHECK IN THE AMOUNT OF
USD 9'000,--
TO THE ORDER OF G.R. ROBINETTE
AND MAIL IT DIRECTLY TO :

G.R. ROBINETTE
3265 ARCADIA PL NW
WASHINGTON DC 20015
USA

TEST KEY NO 151

THANK YOU IN ADVANCE
BEST REGARDS
CSF INVESTMENTS LTD.

** Start of response **
** Telex sent 16:05:33 20/08/86 **

DATE: 20/08/86
TIME: 16:05:33
REF: 08399

023 421434

023421434+
: AUG 20 1005
421434 BLICBANK

428665 CSF CH
CI

428665 CSF CH
421434 BLICBANK

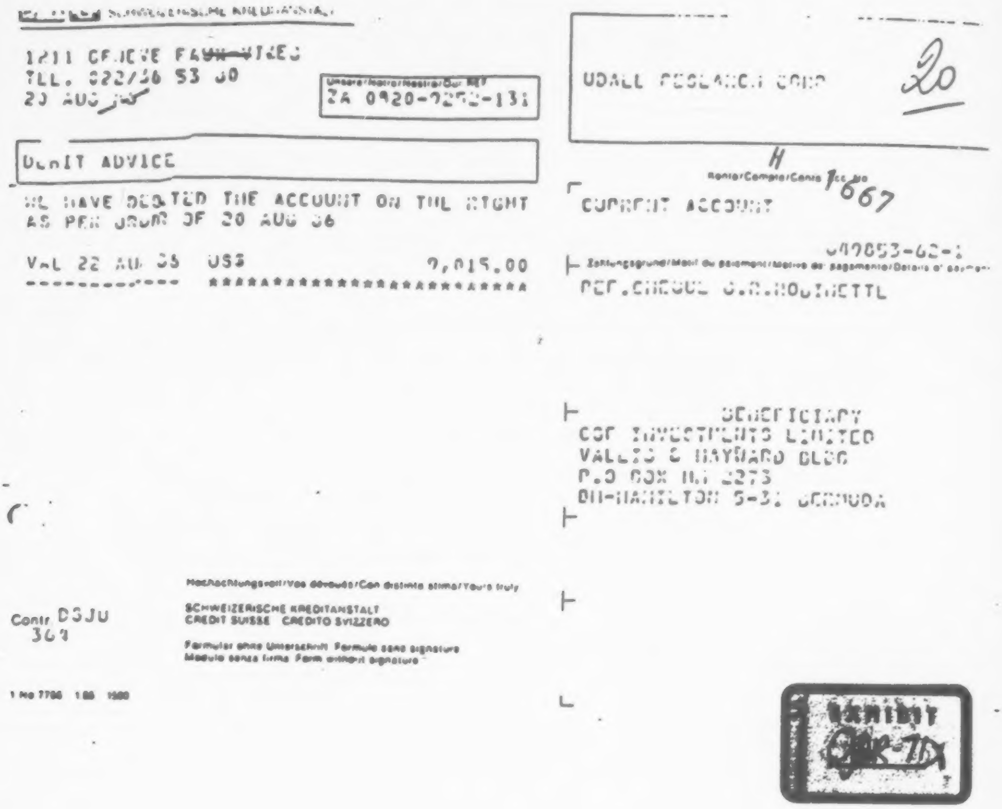
Dr 4203001
<100001>

** End of telex **

CR 5605001

EXHIBIT
GAR-7C

## EXHIBIT GAR-7D



SCHWEIZERISCHE KREDITANSTALT

1211 GENEVE FA~~UB-V~~IVES
TEL. 022/36 53 00
20 AUG 86

Unsere/Notre/Nostra/Our REF
ZA 0920-[illegible]-131

UDALL RESEARCH CORP

20

DEBIT ADVICE

WE HAVE DEBITED THE ACCOUNT ON THE RIGHT
AS PER ORDER OF 20 AUG 86

H

Konto/Compte/Conto Acc No 1667

CURRENT ACCOUNT

VAL 22 AUG 86 US$ 9,015.00
------------- ***************************

049853-62-1

Zahlungsgrund/Motif du paiement/Motivo del pagamento/Details of payment
REF.CHEQUE G.R.HOUINETTE

BENEFICIARY
CSF INVESTMENTS LIMITED
VALLIS & HAYWARD BLDG
P.O BOX HM 2273
BM-HAMILTON 5-31 BERMUDA

Hochachtungsvoll/Vos dévoués/Con distinta stima/Yours truly

SCHWEIZERISCHE KREDITANSTALT
CREDIT SUISSE CREDITO SVIZZERO

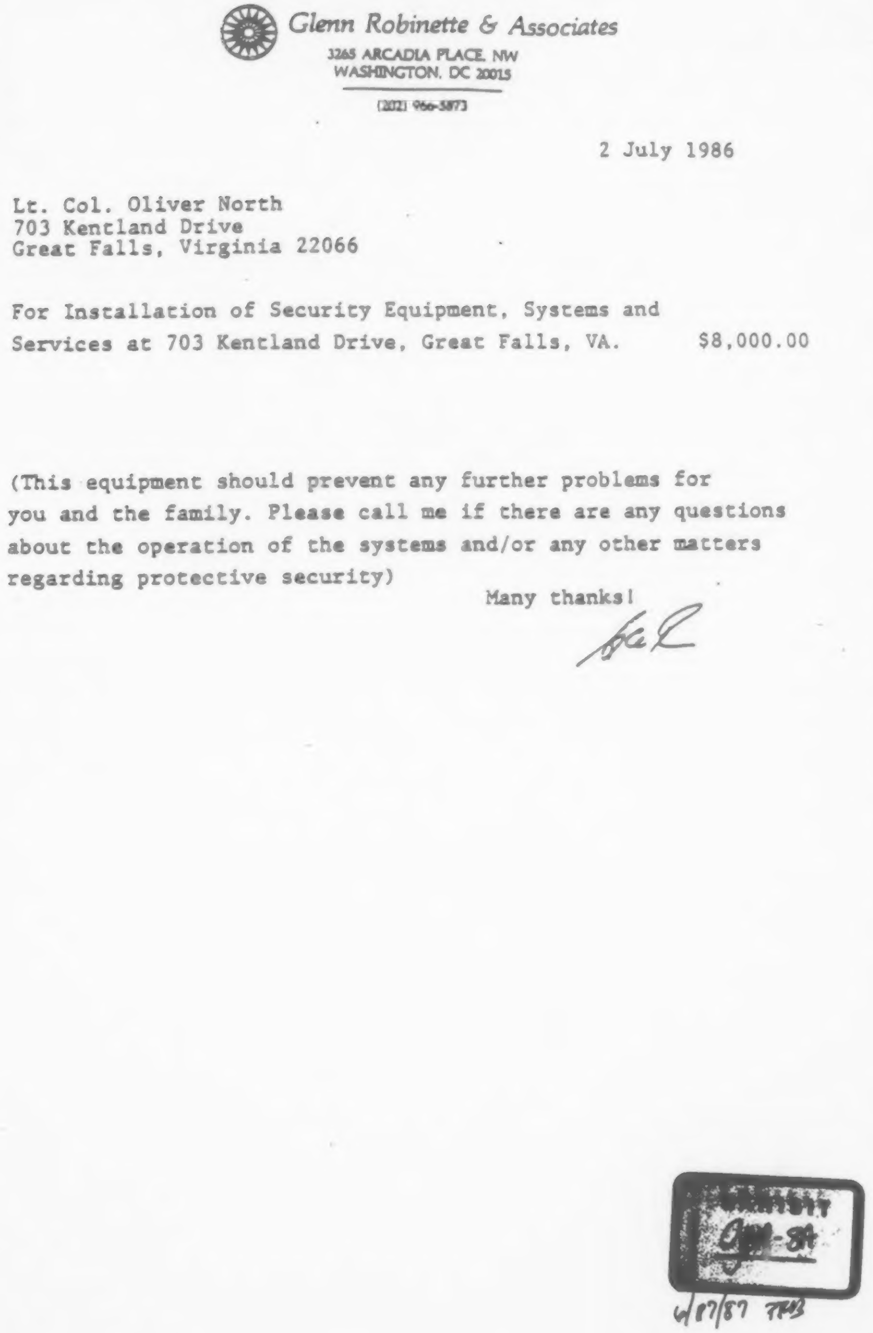
Formular ohne Unterschrift Formule sans signature
Modulo senza firma Form without signature

Contr. D3JU
364

1 No 7786 1 86 1000

EXHIBIT
GAR-7D

## EXHIBIT GAR-8A



Glenn Robinette & Associates
3265 ARCADIA PLACE, NW
WASHINGTON, DC 20015
(202) 966-5873

2 July 1986

Lt. Col. Oliver North
703 Kentland Drive
Great Falls, Virginia 22066

For Installation of Security Equipment, Systems and Services at 703 Kentland Drive, Great Falls, VA. $8,000.00

(This equipment should prevent any further problems for you and the family. Please call me if there are any questions about the operation of the systems and/or any other matters regarding protective security)

Many thanks!

EXHIBIT
GAR-8A

6/87/87 TFB

## EXHIBIT GAR-8B

Glenn Robinette & Associates
3265 ARCADIA PLACE, NW
WASHINGTON, DC 20015
(202) 966-5873

2 July 1986

Lt. Col. Oliver North
703 Kentland Drive
Great Falls, Virginia 22066

| | |
|---|---|
| For Installation of Security Equipment, Systems and Services at 703 Kentland Drive, Great Falls, VA. | $8,000.00 |

(This equipment should prevent any further problems for you and the family. Please call me if there are any questions about the operation of the systems and/or any other matters regarding protective security)

Many thanks!

GAR

22 September 1986

Ollie,

Due to my schedule I have not found time to follow up on my paper work - as you can see from the dates. I'm sure that you have had the same problem. Please remit when you have time.

Many thanks!

GAR

EXHIBIT
GAR-8B

Ex.
H. 7/87 [illegible]

## EXHIBIT GAR-9A

LtCol Oliver L.North, USMC
703 Kentland Dr.
Great Falls, Va. 22066

18 May 1986

Dear Mr. Robinette

My wife and I have considered your kind offer to expedite the installation of a security system at our house in Great Falls. In view of the recent threat by Abu Nidal my frequent absences from home, we would very much appreciate it if you could proceed in accord with the terms we discussed in our last meeting.

It is my understanding that the full system will cost approximately $8000-8500; that it can be installed quickly; and that we have two options for reimbursing you for the expenses:

1. Loan of the equipment for a period not to exceed the expiration of my active service in the United States Marine Corps (June 1988), at which time we will make our home available for commercial endorsement of your firm and the equipment without fee; or

2. Payment in full for the equipment and the cost of installation in 24 equal monthly increments commencing on the date that the installation is completed and fully operational.

Given our current financial situation, we would prefer the first alternative if this is still amenable to your company. I am particularly concerned about the safety of the children given the unfortunate media visibility my position has generated. If the aforementioned terms are still acceptable to you, we would like to have you commence work as soon as possible. We are, of course, prepared to sign an endorsement contract now if you require more than this letter as indication of our intent.

Sincerely,

Oliver L. North

EXHIBIT
GAR-9A
6/17/87 7B3

## EXHIBIT GAR-9B

Oliver L. North
703 Kentland Dr.
Falls Church, Va. 22066
1 Oct 86

Dear Glenn,

Please forgive me for not getting back to you sooner. I've been out of town and we seem to keep missing each other on phone calls.

The reason for my first call was to inquire about your note of September 22. We are a bit confused and surely don't want there to be any misunderstanding in that we are very pleased with the security arrangements at the house. I am also grateful for your looking in on Betsy and the girls now that Stuart is off at school and my hectic pace does not seem to have slowed a bit.

Back to the point: your note of September 22. It was our understanding that we were going to go ahead with the first option for reimbursement - that is; commercial endorsement of your company and the equipment when I retire from the Marine Corps in 1988. If that is not your understanding, we need to get together and talk. While we are very pleased with the system and the fact that it "came in under estimate" (old Pentagon saying), we just don't have $8,000 without borrowing it, and with Stuart in school, and Tait going next year, that is a real problem.

Please advise soonest. I don't want you to be caught short - but I don't want to have to resort to holding up gas stations on my way home from work at night either.

Warm regards,

P.S. Please forgive the
type — I literally
"dropped the ball"

EXHIBIT
GAR-9B
6/17/87 TDS

215

## EXHIBIT GAR-10

N 16250

16 Feb. '84

Received from Richard V. Secord, Cashier
check for $ ~~34~~,610.00 33,000 bk. Made out in name of
Thomas G. Clines

EXHIBIT
GAR-10

EXHIBIT DOD-1

| ✓ What worldwide stocks (in other contries)

DEFENSE SECURITY ASSISTANCE AGENCY

Memo For ____________________

- 500
- From where?

Conceal ult. destination

✓ Cost?

✓ How do I legally transfer? What notices? Break into small pkgs.?

$, quant., detailed descrip., sensitive technology.

✓ What contries can't I legally transfer to?

Reporting Rqt. (3d)

✓ What other contries might be sources?

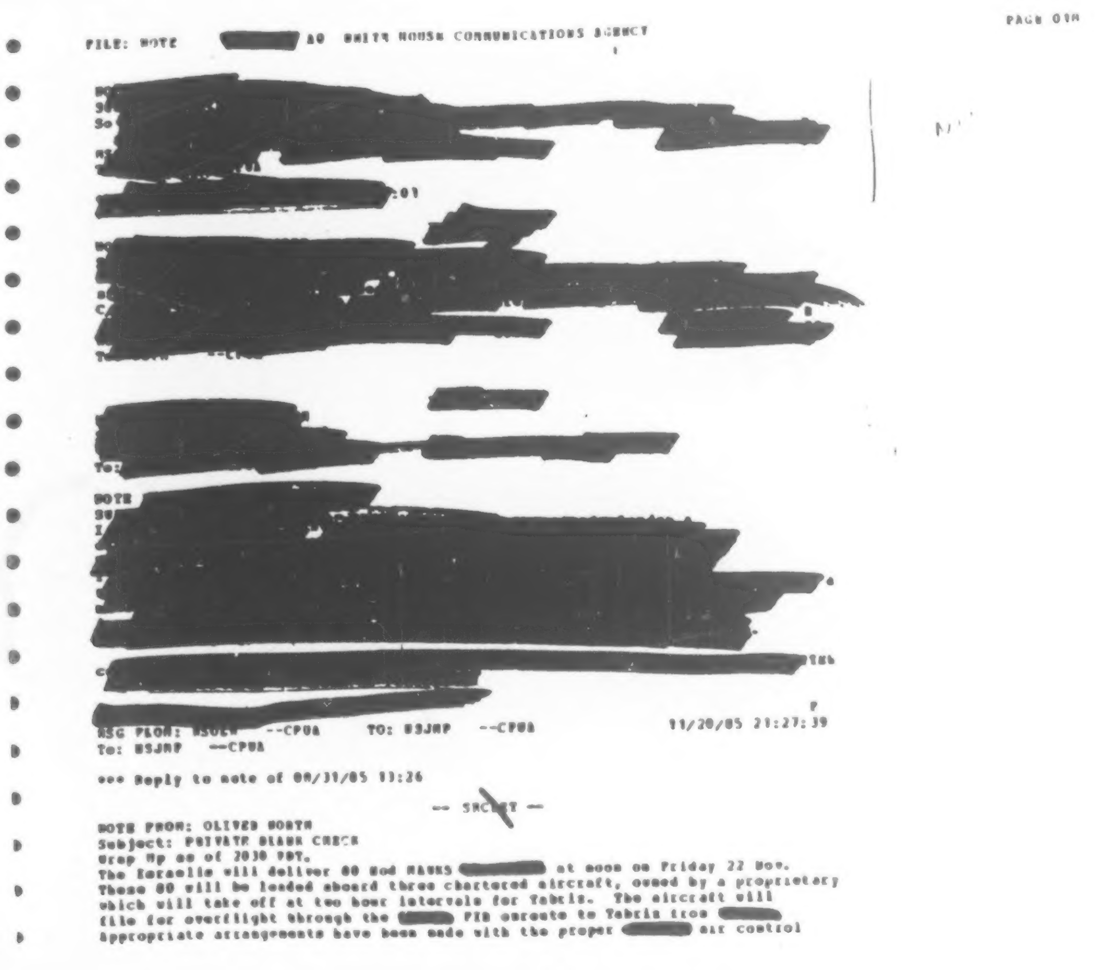
Would we have to tell congress of transfer?

How quick?

✓ If gave, what 3rd ctry transfer restrictions?

EXHIBIT
DOD-1

# EXHIBIT DOD-2



```
FILE: NOTE    [redacted] AO  WHITE HOUSE COMMUNICATIONS AGENCY            PAGE 018

[redacted]
[redacted]:01
[redacted]
[redacted]
[redacted]
[redacted]
[redacted]
[redacted]THE
[redacted]
                                                                P
MSG FROM: NSOLN   --CPUA    TO: NSJMP   --CPUA          11/20/85 21:27:39
To: NSJMP   --CPUA

*** Reply to note of 08/31/85 11:26
                              -- SECRET --
NOTE FROM: OLIVER NORTH
Subject: PRIVATE BLANK CHECK
Wrap Up as of 2030 EST.
The Israelis will deliver 80 Mod HAWKS [redacted] at noon on Friday 22 Nov.
These 80 will be loaded aboard three chartered aircraft, owned by a proprietary
which will take off at two hour intervals for Tabriz.  The aircraft will
file for overflight through the [redacted] FIR enroute to Tabriz from [redacted].
Appropriate arrangements have been made with the proper [redacted] air control
```

EXHIBIT
DOD-2

personnel. Once the aircraft have been launched, their departure will be confirmed by [redacted] who will call [redacted] who will call [redacted] who will direct [redacted] in Beirut to collect the five rpt five Amcits from Hizballah and deliver them to the U.S. Embassy. There is also the possibility that they will hand over the French hostage who is very ill.
There is a requirement for 40 additional weaps of the same nomenclature for a total requirement of 120. $18M in payment for the first 80 has been deposited in the appropriate account. No acft will land in Tabriz until the AMCITS have been delivered to the embassy. The Iranians have also asked to order additional items in the future and have been told that they will be considered after this activity has succeeded. All transfer arrangements have been made by Dick Secord, who deserves a medal for his extraordinary short notice efforts.

Replenishment arrangements are being made through the MOD purchasing office in NYC. There is, to say the least, considerable anxiety that we will somehow delay on their plan to purchase 120 of these weapons in the next few days. IAW your instructions I have told their agent that we will sell them 120 items at a price that they can meet. I have further told them that we will make no effort to move on their purchase LOA request until we have all five AMCITS safely delivered. In short, the pressure is on them.

Tomorrow we will dispatch a covert hostage debrief team to Wiesbaden, under cover of an exercise. [redacted] EUCOM will be told to prepare a C-141 for four-hour alert to pick up any hostages who may be released over the weekend. All of the parties above will be told that we have info (from the same source which advised us of Wier's release) that some, if not all, AMCIT hostages will be turned over [redacted] between now and Sunday.

As soon as we have the release confirmed, we need to move quickly with Defense to provide the 120 missiles the Israelis want to buy. They are very concerned that they are degrading their defense capability, and in view of the Syrian shoot-down yesterday the PM has placed considerable pressure on both Rabin and Kimche for very prompt replacement. Both called several times today.

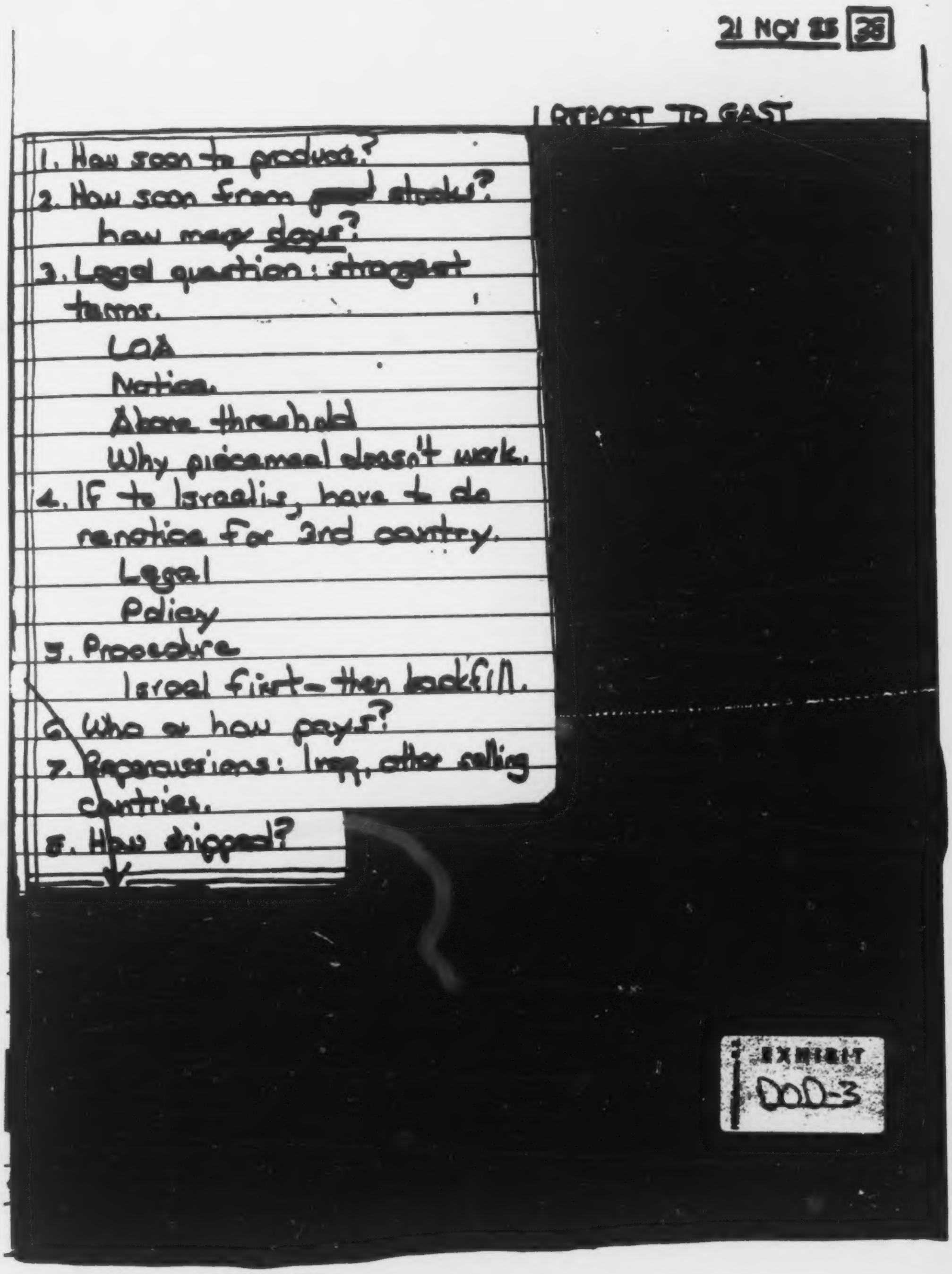
There is the distinct possibility that at the end of the week we will have five Americans home and the promise of no future hostage takings in exchange for selling the Israelis 120 Mod HAWKs. Despite the difficulty of making all this fit inside a 96-hour window, it isn't that bad a deal -- [redacted] Warm regards.
Recommend pass to RCM after review. North.

```
  *  PRIVATE BLANK CHECK
MSG FROM: NSOLN   --CPUA     TO: NSJMP   --CPUA              11/20/85 21:34:39
To: NSJMP   --CPUA

*** Reply to note of 11/19/85 19:49
```

-- SECRET --

NOTE FROM: OLIVER NORTH
Subject: Central Ame ican Brief
This has been fixed. Charlie was not notified by the CIA legislative affairs d

EXHIBIT DOD–3



21 NOV 85 38

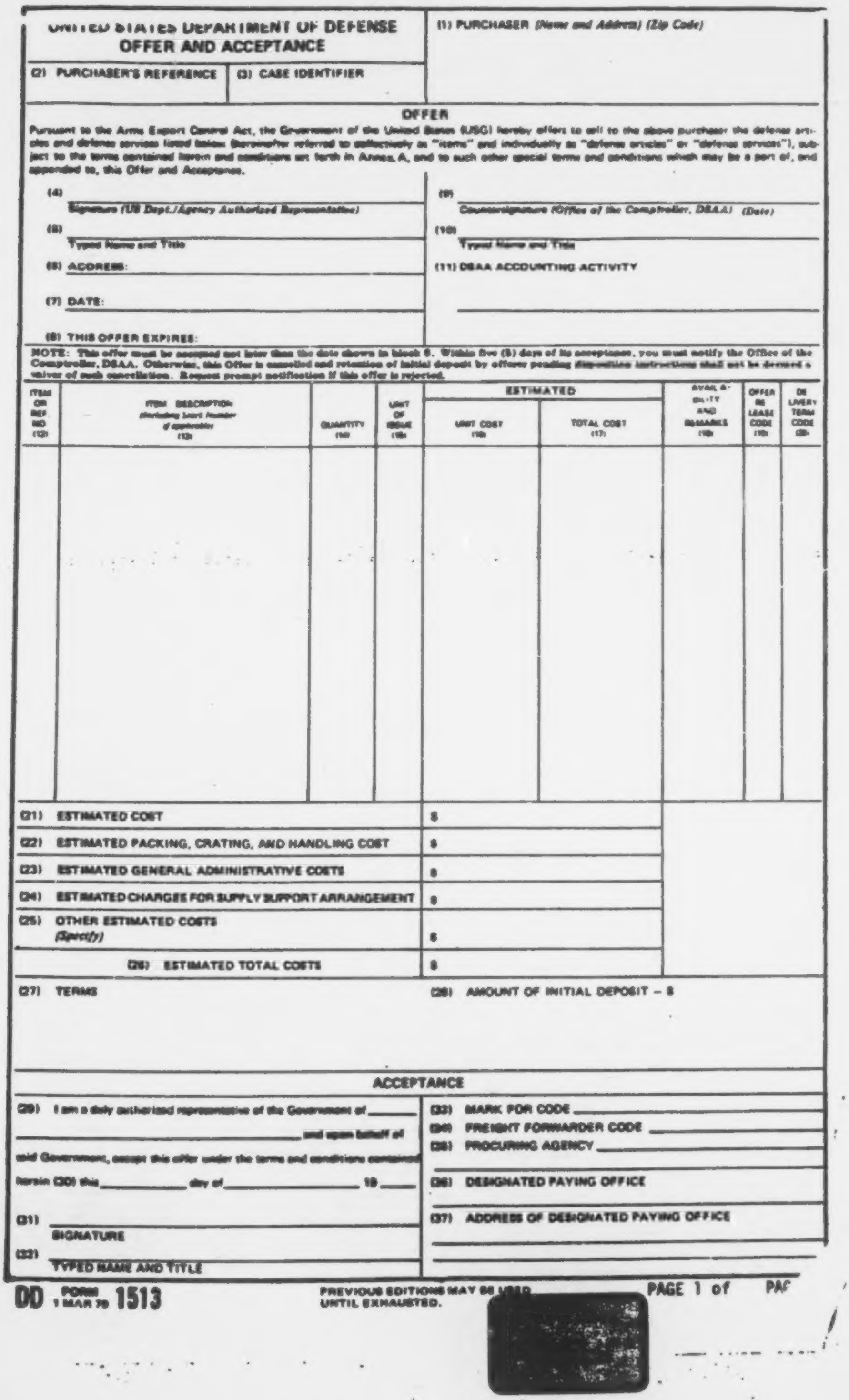
REPORT TO GAST

1. How soon to produce?
2. How soon from good stocks?
   how many days?
3. Legal question: stringent terms.
   LOA
   Notice.
   Above threshold
   Why piecemeal doesn't work.
4. If to Israelis, have to do renotice for 3rd country.
   Legal
   Policy
5. Procedure
   Israel first—then backfill.
6. Who or how pays?
7. Repercussions: Iraq, other selling countries.
8. How shipped?

[redacted]

EXHIBIT DOD-3

## EXHIBIT DOD-4



**UNITED STATES DEPARTMENT OF DEFENSE**
**OFFER AND ACCEPTANCE**

(1) PURCHASER *(Name and Address) (Zip Code)*

(2) PURCHASER'S REFERENCE

(3) CASE IDENTIFIER

**OFFER**

Pursuant to the Arms Export Control Act, the Government of the United States (USG) hereby offers to sell to the above purchaser the defense articles and defense services listed below (hereinafter referred to collectively as "items" and individually as "defense articles" or "defense services"), subject to the terms contained herein and conditions set forth in Annex A, and to such other special terms and conditions which may be a part of, and appended to, this Offer and Acceptance.

(4) ______ *Signature (US Dept./Agency Authorized Representative)*

(5) ______ Typed Name and Title

(6) ADDRESS:

(7) DATE:

(8) THIS OFFER EXPIRES:

(9) ______ *Countersignature (Office of the Comptroller, DSAA) (Date)*

(10) ______ Typed Name and Title

(11) DSAA ACCOUNTING ACTIVITY

**NOTE: This offer must be accepted not later than the date shown in block 8. Within five (5) days of its acceptance, you must notify the Office of the Comptroller, DSAA. Otherwise, this Offer is cancelled and retention of initial deposit by offeror pending disposition instructions shall not be deemed a waiver of such cancellation. Request prompt notification if this offer is rejected.**

| ITEM OR REF NO (12) | ITEM DESCRIPTION *(Including Stock Number if applicable)* (13) | QUANTITY (14) | UNIT OF ISSUE (15) | ESTIMATED UNIT COST (16) | ESTIMATED TOTAL COST (17) | AVAILABILITY AND REMARKS (18) | OFFER RELEASE CODE (19) | DELIVERY TERM CODE (20) |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |

| | |
|---|---|
| (21) ESTIMATED COST | $ |
| (22) ESTIMATED PACKING, CRATING, AND HANDLING COST | $ |
| (23) ESTIMATED GENERAL ADMINISTRATIVE COSTS | $ |
| (24) ESTIMATED CHARGES FOR SUPPLY SUPPORT ARRANGEMENT | $ |
| (25) OTHER ESTIMATED COSTS *(Specify)* | $ |
| (26) ESTIMATED TOTAL COSTS | $ |

(27) TERMS

(28) AMOUNT OF INITIAL DEPOSIT – $

**ACCEPTANCE**

(29) I am a duly authorized representative of the Government of ______ ______ and upon behalf of said Government, accept this offer under the terms and conditions contained herein (30) this ______ day of ______ 19 ______

(31) ______ SIGNATURE

(32) ______ TYPED NAME AND TITLE

(33) MARK FOR CODE ______

(34) FREIGHT FORWARDER CODE ______

(35) PROCURING AGENCY ______

(36) DESIGNATED PAYING OFFICE

(37) ADDRESS OF DESIGNATED PAYING OFFICE

DD FORM 1 MAR 79 1513

PREVIOUS EDITIONS MAY BE USED UNTIL EXHAUSTED.

PAGE 1 of PAG

[redacted]

## GENERAL CONDITIONS

### A. THE GOVERNMENT OF THE UNITED STATES:

1. Agrees to furnish such items from its Department of Defense (hereinafter referred to as "DOD") stocks and resources, or to procure them under terms and conditions consistent with DOD regulations and procedures. When procuring for the Purchaser, the DOD shall, in general employ the same contract clauses, the same contract administration, and the same inspection procedures as would be used in procuring for itself, except as otherwise requested by the Purchaser and as agreed to by the DOD. Unless the purchaser has requested that a sole source contractor be designated, and this Letter of Offer and Acceptance reflects acceptance of such designation by the DOD, the Purchaser understands that selection of the contractor source to fill this requirement is solely the responsibility of the Government of the United States (hereinafter referred to as "USG"). Further, the Purchaser agrees that the United States DoD is solely responsible for negotiating the terms and conditions of all contracts necessary to fulfill the requirements in the Letter of Offer.

2. Advises that when the DOD procures for itself, its contracts include warranty clauses only on an exceptional basis. However, the USG shall, with respect to items being procured, and upon timely notice, attempt to the extent possible to obtain any particular or special contract provisions and warranties desired by the Purchaser. The USG further agrees to exercise, upon the Purchaser's request, any rights (including those arising under any warranties) the USG may have under any contract connected with the procurement of any items. Any additional cost resulting from obtaining special contract provisions or warranties, or the exercise of rights under such provisions or warranties, or any other rights that the USG may have under any contract connected with the procurement of items, shall be charged to the Purchaser.

3.a. Shall, unless the condition is otherwise specified herein (e.g., "As is"), repair or replace at no extra cost defense articles supplied from DOD stocks which are damaged or found to be defective in respect of material or workmanship, when it is established that these deficiencies existed prior to passage of title, or found to be defective in design to such a degree that the items cannot be used at all for the purpose for which they were designed. Qualified representatives of the USG and of the Purchaser, upon notification pursuant to paragraph B.6. below, shall agree on the liability of the USG hereunder and the corrective steps to be taken.

b. With respect to items being procured for sale to the Purchaser, the USG agrees to exercise warranties on behalf of the Purchaser pursuant to A.2. above to assure, to the extent provided by the warranty, replacement or correction of such items found to be defective.

c. In addition, the USG warrants the title of all items sold to the Purchaser hereunder. The USG, however, makes no warranties other than those specifically set forth herein. In particular the USG disclaims any liability resulting from patent infringement occasioned by the use or manufacture by or for Purchaser outside the United States of items supplied hereunder.

4. Agrees to deliver and pass title to the items to the Purchaser at the initial point of shipment unless otherwise specified in this Offer and Acceptance. With respect to defense articles procured for sale to the Purchaser, this will normally be at the manufacturers' loading facilities, with respect to defense articles furnished from stocks, this will normally be at the U.S. depot. Articles will be packed, crated or otherwise prepared for shipment prior to the time title passes. If "Point of Delivery" is specified otherwise than the initial point of shipment, the supplying Military Department or Defense Agency will arrange movement of the items to the authorized delivery point as reimbursable service but will pass title at the initial point of shipment; the USG disclaims any liability for damage or loss to the items incurred after passage of title irrespective of whether transportation is by common carrier or by the U.S. Defense Transportation System.

5. Advises that: a. Unless otherwise specified, USG standard items will be furnished without regard to make or model.

b. The price of items to be procured shall be at their total cost to the USG. Unless otherwise specified, the cost estimates of items to be procured, availability determination, payment schedule, and delivery projections quoted are estimates based on current available data. The USG will use its best efforts to advise the Purchaser or its authorized representatives by DD Form 1513-2:

(1) of any identifiable cost increase that might result in an increase in the "Estimated Total Costs" in excess of 10 percent.

(2) of any changes in the payment schedule(s); and

(3) of any delays which might significantly affect the estimated delivery dates;

but its failure to so advise of the above shall not affect the Purchaser's obligation under paragraphs B.1. and B.3. below.

c. The USG will, however, use its best efforts to deliver items or render services for the amount and at the times quoted.

6. Under unusual and compelling circumstances when the national interest of the United States so requires, the USG reserves the right to cancel or suspend all or part of this Offer and Acceptance at any time prior to the delivery of defense articles or performance of services (including training). The USG shall be responsible for all termination costs of its suppliers resulting from cancellations or suspensions under this paragraph.

7. Shall refund to the Purchaser any payments received hereunder which prove to be in excess of the final total cost of delivery and performance of this Offer and Acceptance, and are not required to cover arrearages on other open Offers and Acceptances of the Purchaser.

8. Advises that personnel performing defense services provided under this Offer and Acceptance will not perform any duties of a combatant nature, including any duties relating to training, advising, or otherwise providing assistance regarding combat activities, outside the United States in connection with the performance of these defense services.

9. Advises that in the assignment or employment of United States personnel for the performance of this Offer and Acceptance, the USG will not take into account race, religion, national origin or sex.

10. Advises that, notwithstanding Purchaser's agreement to pay interest on any net amount by which Purchaser may be in arrears on payments (as provided for in paragraph B.3.g. below), USG funds will not be used for disbursements by DOD to its contractors in the event of any such arrears in payments. Accordingly, failure by the Purchaser to make timely payments in the amounts due may result in delays in contract performance by DOD contractors, claims by contractors for increased costs (including the above mentioned interest costs), claims by contractors for termination liability for breach of contract or termination of contracts by the USG under this or other open Offers and Acceptances of the Purchaser at Purchaser's expense.

### B. THE PURCHASER:

1. Shall pay to the USG the total cost to the USG of the items, even if the final total cost exceeds the amounts estimated in this Offer and Acceptance.

2. Shall make payment(s) for the items by check(s) or by wire transfer payable in United States dollars to the Treasurer of the United States.

3.a. Shall, if "Terms" specify "cash with acceptance", forward with this Offer and Acceptance a check or wire transfer in the full amount shown as the estimated total cost, and agrees to make such additional payment(s) as may be specified upon notification of cost increase(s) and request(s) for funds to cover such increases.

b. Agrees if "Terms" specifies payment to be "cash prior to delivery" to pay to the USG such amounts at such times as may be specified from time to time by the USG (including any initial deposit set forth under "Terms") in order to meet payment requirements for articles or services to be furnished from the resources of the US Department of Defense. USG requests for funds may be based on estimated requirements to cover forecasted deliveries of articles or costs to provide defense services. It is USG policy to obtain funds 90 days in advance of the time DOD plans such deliveries or incurs such expenses on behalf of the Purchaser.

c. Agrees, if "Terms" specify payment by "dependable undertaking" to pay to the USG such amounts at such times as may be specified from time to time by the USG (including any initial deposit set forth under "Terms") in order to meet payments required by contracts under which items are being procured, and any damages and costs that may accrue, or have accrued, from termination of contracts by the USG because of Purchaser's cancellation of this Offer and Acceptance under paragraph B.7. hereof. USG requests for funds may be based upon estimated requirements for advance and progress payments to suppliers, estimated termination liability, delivery forecasts or evidence of constructive delivery, as the case may be. It is USG policy to obtain such funds 90 days in advance of the time USG makes payments on behalf of the Purchaser.

d. Agrees, if "Terms" specify "payment on delivery" that bills may be dated as of the date(s) of delivery of the defense articles or rendering of the defense services, or upon forecasts of the date(s) thereof.

e. Agrees, if "Terms" specify payment under a Credit Agreement between the Purchaser and DOD, to pay to the USG on a "dependable undertaking" basis, in accordance with B.3.c. above, such costs as may be in excess of the amount funded by the Credit Agreement.

f. Agrees, that requests for funds or billings under paragraphs B.3.a. through e. above are due and payable in full on presentation, or, if a payment date is specified in the request for funds or bill, on the payment date so specified, even if such payment date is not in accord with the estimated payment schedule, if any, contained in this Offer and Acceptance. Without affecting Purchaser's obligation to make such payment(s) when due, documentation concerning advance and progress payments, estimated termination liability or evidence of constructive delivery or shipment in support of request for funds or bills will be made available to the Purchaser by DOD upon request. When appropriate, Purchaser will request adjustment of any questioned billed items by subsequent submission of required discrepancy reports in accordance with paragraph B.6. below.

g. Agrees to pay interest on any net amount by which it is in arrears on payments, determined by considering collectively all of the Purchaser's open Offers and Acceptances with the DOD. Interest shall be calculated on a daily basis. The principal amount of the arrearage shall be computed as the excess of cumulative financial requirements of the Purchaser over total cumulative payments after quarterly billing payment due dates. The rate of interest paid shall be a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding short-term obligations of the USG as of the last day of the month preceding the net arrearage and shall be computed from the date of net arrearage.

3. Shall designate the Procuring Agency and responsible Paying Office and address thereof to which the USG shall submit requests for funds and bills under this Offer and Acceptance.

4. Shall furnish shipping instructions for the items with its acceptance of this Offer and Acceptance. Such instructions shall include (a) Offer/Release Code, (b) Freight Forwarder Code, and (c) the Mark for Code, as applicable.

5. Shall be responsible for obtaining the appropriate insurance coverage and customs clearances, and, except for items exported by the USG, appropriate export licenses.

6. Shall accept title to the defense articles at the initial point of shipment (see A.4. above). Purchaser shall be responsible for in-transit accounting and settlement of claims against common carriers. Title to defense articles transported by parcel post shall pass to the Purchaser on date of parcel post shipment. Standard Form 364 shall be used in submitting claims to the USG for overage, shortage, damage, duplicate billing, item deficiency, improper identification or improper documentation and shall be submitted by Purchaser promptly. Claims of $100.00 or less will not be reported for overages, shortages, or damages. Claims received after one year from date of passage of title or billing, whichever is later, will be disallowed by the USG, unless the USG determines that unusual and compelling circumstances involving latent defects justify consideration of the claim.

7. May cancel this Offer and Acceptance with respect to any or all of the items listed in this Offer and Acceptance at any time prior to the delivery of defense articles or performance of services (including training). It shall be responsible for all costs resulting from cancellation under this paragraph.

8. Shall, except as may otherwise be mutually agreed in writing, use the items sold hereunder only:

a. For the purposes specified in the Mutual Defense Assistance Agreement, if any, between the USG and the Purchaser;

b. For the purposes specified in any bilateral or regional defense treaty to which the USG and the Purchaser are both parties, if subparagraph a. of this paragraph is inapplicable; or

c. For internal security, individual self-defense, and/or civic action, if subparagraphs a. and b. of this paragraph are inapplicable.

9. Shall not transfer title to, or possession of, the defense articles, components and associated support material, related training or other defense services (including any plans, specifications or information) furnished under this Offer and Acceptance to anyone not an officer, employee or agent of the Purchaser (excluding transportation agencies), and shall not use or permit their use for purposes other than those authorized by B.8. above, unless the written consent of the USG has first been obtained. * To the extent that any items, plans, specifications, or information furnished in connection with this Offer and Acceptance may be classified by the USG for security purposes, the Purchaser shall maintain a similar classification and employ all measures necessary to preserve such security, equivalent to those employed by the USG, throughout the period during which the USG may maintain such classification. The USG will use its best efforts to notify the Purchaser if the classification is changed. The Purchaser will ensure, by all means available to it, respect for proprietary rights in any defense article and any plans, specifications, or information furnished, whether patented or not.

## C. INDEMNIFICATION AND ASSUMPTION OF RISKS:

1. It is understood by the Purchaser that the USG in procuring and furnishing the items specified in this Offer and Acceptance does so on a nonprofit basis for the benefit of the Purchaser. The Purchaser therefore undertakes, subject to A.3. above, to indemnify and hold the USG, its agents, officers, and employees harmless from any and all loss or liability (whether in tort or in contract) which might arise in connection with this Offer and Acceptance because of: (i) injury to or death of personnel of Purchaser or third parties; (ii) damage to or destruction of (A) property of the DOD furnished to Purchaser or suppliers specifically to implement this Offer and Acceptance, (B) property of Purchaser (including the items ordered by Purchaser pursuant to this Offer and Acceptance, before or after passage of title to Purchaser), or (C) property of third parties, or (iii) patent infringement.

2. Subject to any express, special contractual warranties obtained for the Purchaser in accordance with A.2. above, the Purchaser agrees to relieve the contractors and subcontractors of the USG from liability for, and will assume the risk of, loss or damage to: (i) Purchaser's property (including the items procured pursuant to this Offer and Acceptance, before or after passage of title to Purchaser) and (ii) property of the DOD furnished to suppliers specifically to implement this Offer and Acceptance, to the same extent that USG would assume for its property if it were procuring for itself the item or items procured pursuant to this Offer and Acceptance.

## D. ACCEPTANCE:

1. To accept this Offer and Acceptance, the Purchaser will not later than the expiration date of the Offer and Acceptance, as set forth herein, return three copies properly signed to the security assistance accounting center designated herein, accompanied by such initial deposit or other payment as may be required by the Terms herein. In addition, Purchaser will concurrently return three copies properly signed to the U.S. Military Department or Defense Agency making the offer. When properly accepted and returned as specified herein, the provisions of this Offer and Acceptance shall be binding upon the USG and the Purchaser.

2. It is understood that implementation of the Offer and Acceptance cannot proceed without a proper acceptance. Failure to comply with Terms and Conditions required for acceptance, as, for example, delay in submission of any required initial deposit or payment of full estimated cost, as the case may be, may require revision or release of the Offer and Acceptance.

3. Unless a written request for extension is made by the Purchaser and granted in writing by an authorized representative of the appropriate U.S. Military Department or Defense Agency, this Offer and Acceptance shall terminate on the expiration date set forth herein.

## E. ENCLOSURES:

Enclosures attached hereto are, by this reference, incorporated herein and are made a part hereof as though set forth in full.

## F. PUBLIC INSPECTION:

This Offer and Acceptance will be made available for public inspection to the fullest extent possible consistent with the national security of the United States.

## EXPLANATORY NOTES

1. The item or reference numbers appearing in the "ITEM OR REF. NO." column may not correspond with references used in Purchasers' original request. However, this number, together with the case identifier shown should always be used as a reference in future correspondence.

2. Availability leadtime quoted is the estimated number of months required to complete delivery of the item(s) in accordance with the terms of delivery after receipt of acceptance of this Offer pursuant to Section D. of the Conditions, and the conclusion of appropriate financial arrangements. Phased deliveries are shown by quantity and leadtime for each increment, where applicable. Items for which delivery leadtime is not shown are noted in column headed "Item Description" as items to be installed in the applicable end item prior to shipment.

3. The planned source of supply for each item is expressed in the following codes:

| | | |
|---|---|---|
| S | (*) | Service Stocks |
| P | (*) | Procurement |
| R | (*) | Rebuild/Repair/Modification |
| X | (*) | Stock and procurement, e.g., initial repair parts |
| E | (*) | "Mimex" major items in long supply or excess |

*Availability is stated in months.

4. Condition of the defense articles shown in the "AVAILABILITY AND REMARKS" column is expressed in the following codes:

| | | |
|---|---|---|
| A1 | – | Items to be provided in existing condition without repair, restoration or rehabilitation which may be required. Condition indicated in item description. |
| M | – | Articles of mixed condition (new, reworked, and rehabilitated) may be commingled when issued. Example: repair parts, ammunition, set assemblies, kits, tool sets and shop sets. |
| B | – | Serviceable defense articles. |
| O | – | Obsolete or non-standard item in an "AS IS" condition for which repair parts support may not be available from DOD |
| S | – | Substitute. Suitable substitutions may be shipped for unavoidable defense articles unless otherwise advised by the Purchaser. |
| U | – | Reworked or rehabilitated defense articles possessing original appearance insofar as practicable; including all Modification Work Orders and Engineering Change Orders as applied to such defense articles when issued but defense articles should not be considered as having had total replacement of worn parts and/or assemblies. Only parts and components not meeting US Armed Forces serviceability tolerances and standards will have been replaced; in all instances such defense articles will meet US Armed Forces standards of serviceability. |

5. Training notes:

| | | |
|---|---|---|
| AP | – | Annual Training Program. |
| SP | – | Special Training designed to support purchases of US equipment. |
| NC | – | This offer does not constitute a commitment to provide US training. |
| SC | – | US Training concurrently being addressed in separate Offer and Acceptance. |
| NR | – | No US training is required in support of this purchase. |

6. For meaning of delivery codes, see Military Assistance Program Address Directory (MAPAD).

7. The use of Offer/Release Codes "Y" and "Z" will incur a storage fee of .125% per month for shipment delays in excess of 15 days.

## EXHIBIT DOD-5

UNCLASSIFIED H F [redacted] 091

[illegible]

Hawk Missiles for Iran

- Missiles are available right now, suitable for foreign sale. There are 1[illegible] missiles at Red River Arsenal - [illegible] intended for UAE and [illegible] for Korea. Seven of these are intended for tests, but the tests can be foregone.
- The missiles at Red River Arsenal cost $3[illegible] apiece. This is not necessarily a firm price, and replacements could cost as much as $43[illegible] apiece.
- Thus, the total bill for 120 missiles would be $36-52.3 million. To this, applicable charges would have to be added (NRC cost, administration charge, packing and transport charges, plus storage).
- The missiles for Korea and UAE would have to be replaced, so DSAA will need the money to replace them.
- The modalities for sale to Iran present formidable difficulties:
  - -- Iran is not currently certified for sales, including indirectly as a third country, per Sec. 3 of the AECA.
  - -- Congress must be notified of all sales of $14 million or more, whether it is a direct sale or indirect to a third country. The notice must be unclassified (except for some details), and the sale cannot take place until 30 days after the notice. The 30 days can be waived for direct sales, but the third country transfer has no such provision, and notice must still be given in any case.
  - -- Thus, even if the missiles were laundered through Israel, Congress would have to be notified.
- It is conceivable that the sale could be broken into 3 or 4 packages, in order to evade Congressional notice.
  - -- While there is no explicit injunction against splitting up such a sale (subject to check...), the spirit and the practice of the law is against that, and all Administrations have observed this scrupulously.
  - -- It is conceivable that, upon satisfactory consultation with Chairmen Lugar and Fascell and their minority counterparts, they might agree to splitting the sale into smaller packages.
- The customer countries (UAE and Korea) would have to be told that their deliveries had been rescheduled, but we would not have to tell them why. We would not want to charge them more for later deliveries.

EXHIBIT
DOD-5

UN[illegible] SECRET

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political drawbacks are equally formidable

- -- If Iraq ever found out, they would be greatly irritated. Their sources of supply are more readily accessible than Iran's, however, so there would be no effect in that respect.

- -- Saudi Arabia and the other Gulf States would also be irritated and alarmed.

- -- If Israel were used as the laundering country, they would be greatly encouraged to continue selling to Iran, and to expand their sales.

- -- If the sale became known, all bars would be removed from sales by such countries as Spain, Portugal, Greece, UK, Italy, and FRG, countries who are only barely restrained from overt, large sales to Iran now.

- -- In short, the risk is that of prolonging and intensifying the Iran-Iraq war, while seriously compromising US influenc over Israel and other countries to restrain sales to Iran.

SECRET

# Exhibit DOD–6

EXHIBIT
DOD-6

FINALLY, IF MY READING OF THE TEA LEAVES IS RIGHT, A QUICK TRIP TO CENTAM (INCLUDING A VERY BRIEF STOP IN EL SALVADOR - 2b(a)) WOULD HAVE POSITIVE BENEFITS BOTH HERE IN THE STATES AND DOWN THERE SHORTLY AFTER YOU ARE CONFIRMED/ANNOUNCED. PLS ADVISE.
PRIVATE BLANK CHECK

MSG FROM: NSOLN --CPUA TO: NSJMP --CPUA 12/04/85 02:02:55
To: NSJMP --CPUA

*** Reply to note of 08/31/85 13:26

-- SECRET --

NOTE FROM: OLIVER NORTH
Subject: PRIVATE BLANK CHECK
Subject: Current Status of Operation Recovery: Following summary is based on discussions in Geneva among Kimche, Copp, Gorbanifahr and [redacted] which were concluded this weekend, subsequent discussions with Mondy Moren here in Washington which are continuing, and calls btwn Copp and Kimche's asset (Nimrodi) who is "baby sitting" the Iranians in Paris (where they are are receiving guidance from Tehran).

The attempted transfer [redacted] of 18 Hawk missiles went awry because the Iranians were in fact seeking a weapons system that would be capable of stopping Soviet reconnaissance flights along the Iranian/Soviet border and on the Iranian/Iraqi border. Gorba rptd that these flights occur regularly and as deep as 40mi inside Iranian airspace. Because Schwimmer and Ledeen were unfamiliar with the operational parameters of the HAWK, they agreed to ship 120 weapons that were totally inadequate to meet the rqmts established by the Iranians. This delivery has created an atmosphere of extraordinary distrust on the part of the Iranians; in Kimche's view, because the credibility of the Gorba[redacted] mission has probably been seriously called into question.

Despite this perception (Gorba said numerous times that this whole thing was a "cheating game" on the part of the Israelis), Copp & Kimche have been able to proceed with a renewed dialogue which still promises hope for achieving our three objectives:
-- support for a pragmatic - army oriented faction which could take over in a change of government
-- return of the five AMCIT hostages
-- no more terrorism directed against U.S. personnel or interests.

From these ongoing discussions, which in two cases included Iranian military officers, Copp and Kimche conclude that the military situation in Iran is desperate. The Iranian descriptions of the state of their equipment, lack of competent management, inability to use much of the remaining U.S. materiel portends the real possibility of a military collapse (at least by the Army) in the near to mid-term. Thus, there is considerable pressure on the interlocutors in Europe to produce - quickly.

Given the relatively low level of competence on the part of the Iranians in Europe, and the fact that any supplies delivered will undoubtedly have to be examined by an Army or Air Force officer, it is very doubtful that a "single transaction" arrangement can be worked out with the parties in Tehran, no matter what is agreed to in Europe. In short, they have been "screamed" on many times in the past that the attitude of distrust is very high on their part. At the same time, in all discussions (including today's phone calls) they are desperate to conclude some kind of arrangement in the next 10 days and have even asked that the meeting scheduled for Saturday in London be advanced. Based on what we can conclude from intelligence in Beirut, we believe that they are very concerned that the hostages (the only Iranian leverage point besides the Jews in Iran) may be killed or captured/released by the Syrians, Druze, Phalange or Amal in the near future. [redacted] In short, time is very short for all parties concerned.

Finally, there is the matter of the longer term strategy for what we should be attempting to accomplish vis a vis the Iran-Iraq war and a more reasonable government in Iran. From my personal discussions with Kimche and Meron it is apparent the the Israelis want: the war to continue at a stalemate, a more moderate Iranian government in the end and will somehow find a way to continue getting their people (Jews) out of Iran through some kind of barter arrangement. In that the first two of their goals are, it would seem, generally congruent w/ our interests, and their last a fact of life, we should probably be seeing the return of the AMCIT hostages as a subsidiary benefit -- not the primary objective, though it may be a part of the necessary first steps in achieving the broader objectives. While Kimche, Meron, Copp and I all agree that there is a high degree of risk in pursuing the course we have started, we are now so far down the road that stopping what has been started could have even more serious repercussions. We all view the next steps as "confidence building" on the part of both sides. None of us have any illusions about the cast of characters we are dealing with on the other side. They are a primitive, unsophisticated group who are extraordinarily distrustful of the West in general and the Israelis/U.S. in particular. They have not the slightest idea of what is going on in our government or how our system works. Today for example, Gorba called Copp in absolute confusion over the fact that Rafsanjani had just received a letter from (of all people) Sen. Helms regarding the American Hostages. Since the Iranians are adamant that they not be publicly connected with the seizure, holding or release of the AMCITs, why, Gorba wanted to know, was Helms being brought into this "solution to the puzzle." Gorba reiterated that "Batri ought to have more control over the members of his parliment" than to allow them to confuse an already difficult problem. Dick told him the letter had nothing to do with what we are about, but Gorba did not seem convinced that this wasn't some sort of effort to embarass Iran.
Given this very unsophisticated view of things on their part and the distrust that the Iranians obviously feel, we believe that if we stop the current effort at this point and do not at least proceed with a "test" of the current relationship we:
-- run the risk of never being able to establish a "foothold" for the longer term goals in that the people we are dealing with will be totally discredited at home; and
-- incur the greater likelihood of reprisals against us for "leading them on." These reprisals could take the form of additional hostage seizures, execution of some/all of those now held, or both.

While the threat to carry out sanctions against us has not, to my knowledge, ever arisen (it certainly has not since Kimche/Copp/North have been directly engaged -- and Michael never mentioned it), it is interesting to note that when Copp questioned the bona fides of Gorba and his cohorts as capable of delivering on their end of the arrangement, Gorba carefully noted that since these discussions began w/ Michael & Schwimmer, there has not been a single Islamic Jihad bomb threat, hijacking or kidnapping -- and that there would be none if this "worked." D.R., Copp and I regard this to be at least one sign of confidence that this activity may yet prosper. There are some lesser indications of confidence in recent days:

-- in response to Copp's demand for funds to be deposited in advance to defray operational costs, and what the Iranians were told were "purchases on the arms market" a total of $41M has been deposited;
-- the 18 HAWKs delivered last week have been repackaged and are ready for return to origin on the next available flight;
-- the parties in Europe continue to stress that their requirements are long-term and that they are anxious to get on with a longer range program of Israeli originated support which would include technical assistance w/ sophisticated hardware which is critically needed but deadlined (in this regard Gorba at one point noted that at times they have as few as 50 operational tanks and less than a dozen flyable aircraft).

With all of the above as a lengthy preamble describing two nearly frantic weeks w/ the Israelis & Iranians, the following proposal has evolved which the Iranians today said they wd like to discuss in detail on Saturday:

-- The total "package" from the Israelis wd consist of 50 I HAWKs w/ PIP (product improvement package) and 3300 basic TOWs.
-- Deliveries wd commence on or about 12 December as follows:

H-hr: 1 707 w/300 TOWs = 1 AMCIT
H+10hrs: 1 707 (same A/C) w/300 TOWs = 1 AMCIT
H+16hrs: 1 747 w/50 HAWKs & 400 TOWs = 2 AMCITs
H+20hrs: 1 707 w/300 TOWs = 1 AMCIT
H+24hrs: 1 747 w/2000 TOWs = French Hostage

All involved on our side recognize that this does not meet one of the basic criteria established at the opening of this venture: a single transaction which wd be preceded by a release of the hostages. However, given the points above regarding the mutual distrust in the dialogue, we all believe it is about the only way we can get the overall process moving. Measures have been taken to reduce the chance for duplicity on the part of the Iranians and to preserve a measure of OPSEC in carrying out the transaction. In the case of a double cross, one of the Iranians will be in the hands of assets we control throughout. One of them [redacted] has already suffered a serious (though apparently not fatal) heart attack after last week's HAWK transaction failed to produce results. The first two deliveries, via 707 freighters are relatively small and if they do not produce the desired outcomes, all else stops. All 3 are now under our control.

OpSEC concerns are threefold: communications, deliveries enroute to Iran and replenishment of the Israeli stocks. To solve the first problem an OPs Code is now in use by all parties. This code is similar to the one used to oversee deliveries to the Nicaraguan Resistance and has never been compromised. The delivery/flight planning security problem has been solved by a much more deliberate selection of aircraft and aircrews

## EXHIBIT DOD-7

UNCLASSIFIED TOP SECRET

N 28750

~~TOP SECRET~~

December 5, 1985

### SPECIAL PROJECT RE IRAN

**Background**: Several months ago, one of the agents engaged in shipping materiel to the Nicaraguan resistance noted the presence of U.S. military stocks in a [redacted] warehouse. Inquiries indicated that the military materiel was of Israeli origin being shipped by a private company for sale to Iran. When we approached a high-level Israeli official with this knowledge, we were advised that the GOI was not "technically violating" the U.S. ban on shipments to Iran in that the sales were being undertaken by a non-governmental entity [redacted] We were told that each aircraft that delivered arms to Iran, returned to Israel [redacted]

In discussing the matter with the Israelis, they indicated that their objectives in "permitting" this activity were threefold:

-- Use the arms sales to build the credibility of moderate elements in the Iranian army in hopes that they would become sufficiently powerful to establish a more reasonable government in Tehran.

-- Deliver sufficient military materiel to ensure that the Iranian military does not collapse under the pressure of an increasingly effective Iraqi military effort.

[redacted]

In early September, in order that we not take action to terminate the arms sales, the Israelis proposed that this process be used as leverage to recover the American citizens held hostage in Lebanon. It was decided to test the validity of this proposal and on September 14, the Israelis, using chartered aircraft, delivered 500 TOW missiles to Tabriz, Iran. Prior to commencing this operation, we committed to the Israelis that we would sell them replacements for the items they had sold and delivered to Iran. Two days later Reverend Benjamin Weir was released.

EXHIBIT
DOD-7

~~TOP SECRET~~
~~Declassify: OADR~~

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UNCLASSIFIED

N 28751

**Current Situation**: The Iranians have significant interest in continuing this process. They are under extraordinary military pressure from Iraq and are, by their own admission, subject to regular overflights of Iranian territory by Soviet aircraft. They currently have no capability to deal with this affront and find themselves in an increasingly desperate situation vis-a-vis Iraq. They have urged the Israelis, with whom they are in contact, to continue the process which resulted in the release of Benjamin Weir.

Our continuing efforts to achieve release of the hostages through diplomatic and other means have proven fruitless. There are numerous indications including reports from the special representative of the Archbishop of Canterbury, Terry Waite, that time is running out for the hostages. We are relatively confident of information that former Beirut Chief of Station, Bill Buckley is dead. [redacted]

The Iranians, who have been in contact with the Israelis, are cognizant of the pressure being placed on their Hizballah surrogates in Lebanon and that it is entirely likely that the only leverage they will have over us (the hostages) may no longer be available in the near future. These Iranians, the same that arranged the release of Weir, have now proposed that in exchange for an immediate delivery of 3,300 TOW missiles and 50 Improved HAWK Surface-to-Air missiles from Israel, they will guarantee:

- The release of the five Americans and one of the French hostages still being held.
- No further acts Shia fundamentalist terrorism (hijackings; bombings, kidnappings) directed against U.S. property or personnel.

There is considerable reason not to accept this proposal. It is contrary to our stated policy of not making concessions to terrorists or those who sponsor them. It is also possible that such an arrangement is a "double-cross" in that the Iranians can not or will not release the captives as agreed. Such an arrangement, bartering for the lives of innocent human beings, is repugnant. Finally, the quantities which the Iranians wish to purchase will significantly degrade Israeli stockpiles and require very prompt replenishment.

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U.S. Interests: Notwithstanding the undesirable nature of such a transaction, it must be noted that the first two Israeli objectives are congruent with our own interests:

-- A more moderate Iranian government is essential to stability in the Persian Gulf and MidEast.

-- Such a change of government in Iran is most likely to come about as a consequence of a credible military establishment which is able to withstand the Iraqi onslought and deter Soviet adventurism/intimidation. The Iranian army (not the Revolutionary Guards) must be capable of at least stalemating the war.

-- Shia fundamentalist terrorism is a serious threat to the United States which has long-term adverse consequences for our interests and we must endeavor to stop its spread.

-- The return of the American hostages will relieve a major domestic and international liability -- in addition to its obvious humanitarian aspect.

The first three of these goals may well be achievable -- and the fourth accrued as a subsidiary benefit -- by commencing the process of allowing the Israeli sales as proposed by the Iranian agents in Europe. It is unlikely, however, that we can proceed further toward the first three -- and not at all on the hostage release unless we allow the process of delivery to begin.

Discussions toward this end have been proceeding among the Israelis, Iranians and a U.S. businessman acting privately on behalf of the USG for nearly three weeks. There are several indications of confidence that an arrangement can be consummated in the next 10 days which would result in the release of the hostages and commencement of a process leading toward the first three objectives above. The military situation in the Iran/Iraq war and the increasing pressure on the Hizballah in Lebanon both point toward immediate action. There is also, as the Iranian intermediaries point~~ed noted last week,~~ a complete absence of any Shia fundamentalist hijackings, assassinations, hostage seizures, or bombings since this dialogue began in September. While there have not been expressed or implied threats by the Iranians in these discussions, the Israeli and U.S. private citizen participants believe that if the current effort is not at least tried, we run the risk of abandoning both the longer term goals and the likelihood of reprisals against us for "leading them on." These reprisals would probably take the form of additional hostage seizures, execution of some/all those now held, or both.

Next steps: The Iranians, the Israelis, and our U.S. businessman plan to meet in London on Saturday, December 6 to discuss whether or not to proceed with the sale of the TOWs and HAWKs. The Israeli government has informally told us that if they can be assured of "prompt" resupply, they will sell the quantities requested from their prepositioned war reserve. 3,300 TOWs represents approximately half their available supplies.

The U.S. businessman has arranged for the charter of two non-U.S. registered aircraft for use in the deliveries. The total delivery would be conducted in 5 flights from Tel Aviv to Tabriz, Iran via interim airfields in Europe prior [redacted] Each delivery is to result in the release of a specified number of hostages. Arrangements for the interim airfields, overflight rights, and flight plans have been made, some with the help of the CIA. A communications code to preserve operational security is available for use by all parties. All aircraft would be inspected by an Iranian at one of the transient locations between Tel Aviv and Tabriz. [illegible] entire evolution is designed to be completed in [illegible] 24 [illegible] period. [illegible] can be stopped at any point if the Iranians fail to deliver.

The greatest operational security concern is that of replenishing Israeli stocks. The Israelis have identified a means of transferring the Iranian provided funds to an Israeli Defense Force (IDF) account, which will be used for purchasing items not necessarily covered by FMS. They will have to purchase the replenishment items from the U.S. in FMS transaction from U.S. stocks. Both the number of weapons and the size of the cash transfer could draw attention. If a single transaction is more than $14.9 M, we would normally have to notify Congress. The Israelis are prepared to justify the large quantity and urgency based on damage caused to the equipment in storage.

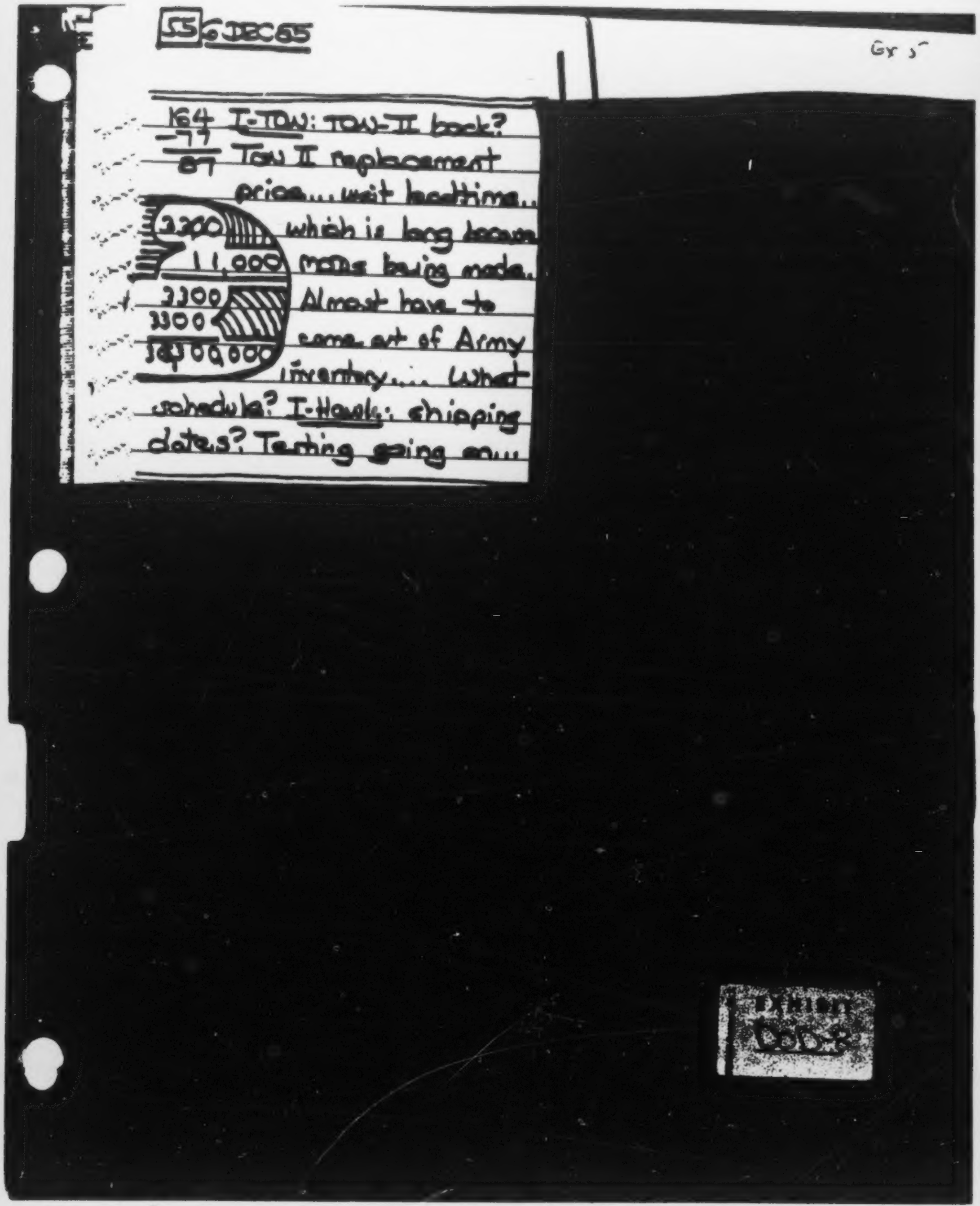
[redacted]

If this process achieves the release of the hostages and proves the credibility of the Iranian contacts in Europe, Bud McFarlane would then step in to supervise achieving the longer range goals. Additional meetings with the Iranians would be arranged to further our objectives without requiring such large scale sales/deliveries by the Israelis.

Approval is now required for us to take the next steps on Saturday. After carefully considering the liabilities inherent in this plan, it would appear that we must make one last try or we will risk condemning some or all of the hostages to death and undergoing a renewed wave of Islamic Jihad terrorism. While the risks of proceeding are significant, the risks of not trying are even greater.

BEST AVAILABLE COPY

## EXHIBIT DOD–8



55 6 DEC 85

Gr 5

164
−77
87

I-TOW: TOW-II back? TOW II replacement price... wait leadtime... which is long becaus none being made. Almost have to come out of Army inventory.... What schedule? I-Hawk: shipping dates? Testing going on...

3300
11,000
3300
3300
$8400,000

[redacted]

EXHIBIT DOD-8

dially Declassified/Released on 23 Jan 1987
under provisions of E.O. 12356
by S. Regis, National Security Council

UNCLASSIFIED

SECRET

U 21524

## PROSPECTS FOR IMMEDIATE SHIPMENT OF I-HAWK and I-TOW MISSILES

### I-HAWK

- There are 164 missiles available at Red River Arsenal--75 intended for UAE and 84 for Korea. The missiles have not yet been lot acceptance tested, but there is a very low risk of failure. The missiles will be at Red River until about April 1986 for testing.

- There would be no impact on the UAE if we ship their 75 missiles. The program has slipped in other ways, and can be accommodated within the normal production lead time for replacement missiles.

- Korea would have to be consulted to ascertain the impact on their program, if it is necessary to ship any missiles in addition to the 75 mentioned above. Procurement lead time to replace Korea's missiles would be about 33 months.

- To the best of our knowledge, all of U.S. Army I-HAWKs are with units and should not be considered from diversion.

- Unit replacement price of HAWK missiles is about $437.7K; total package price for 50 would approximate $22.5M; for 100 about $45M. Package prices include FMS surcharges.

### I-TOW

EXHIBIT
DoD-9

- Army has about [redacted] TOWs (including 40,000 I-TOW) on hand, against a distribution requirement of about [redacted] About 12,900 I-TOW missiles are available in CONUS depot stocks.

- Based on the numbers, the impact on Army of shipping 3,300 I-TOWs immediately would be serious but not intolerable. No missiles would have to be taken from troops. Based on the seriousness of the requirement, and keeping in mind that the Army would receive TOW-II replacement missiles, it is likely that the Army would reluctantly acquiesce to immediate shipment of the entire quantity.

- Unit price of the replacement TOW-II missile is about $12,200; total package price would approximate $42M, with FMS surcharges.

- Delivery from production of TOW-II pay back missiles to the Army would occur about the beginning of CY 1988. If necessary--though this is not recommended--approximately 2,000 unallocated TOW-II missiles could be delivered from SDAF to Army in second quarter CY 1987.

UNCLASSIFIED

(1271)

[redacted] UNCLASSIFIED

## POSSIBILITY FOR LEAKS

D 21525

There is no good way to keep this project from ultimately being made public. Following are three legal methods together with a brief discussion on the possibility of compromise.

- The President can make a determination, Section 614 of ~~te~~ the Foreign Assistance Act, which would waive the statute which requires the normal Congressional notification under Section 36(b) of the Arms Export Control Act (AECA).

- President must notify the Speaker of the House and the Chairman of the Foreign Relations Committee, provide a written justification, and consult with both the Chairman of the Foreign Relations Committee and the Chairman of the Foreign Affairs Committee. This could be done in a classified, close-hold manner and is the best prospect for eliminating leaks from Congressiona sources. However, the problem would come with actually executi a Letter of Offer (LOA) for the material without disclosing to the entire Security Assistance Community that the President had waived the need for Section 36(b) notification (Headquarters Army, USASAC, and MICOM, all are aware of the legal requirement not to process the LOAs without the 36(b) notification process).

- The OSD General Counsel should be asked personally to confirm that Section 614 is legal under these circumstances, since this authority never has been exercised in this way.

- The President could sign an emergency notification under Section 36(b), waiving the formal 30-day notification period. This requires a certification that an emergency exists, and the reasons therefor. While this notification would be classified, the distribution of the Section 36(b) notice is much broader than would be true for the Section 614 determination mentioned above. Additionally, the Security Assistance Community would have to be informed that the President had made the emergency determination and waived Section 36(b) before the LOA could be prepared and issued. There would be no good explanation as to why an emergency would exist for this country's purchasing the missiles.

- The last option, if time permits, would be to treat the sale as a routine unclassified action under Section 36(b). This would require the full 50-day notification period (including the 20-day informal notice) for Congressional review. Both systems are in the inventory of the country involved, and it is possible that the notification would flow through without question. This almost certainly would be true for I-HAWKs in the quantity contemplated; the I-TOW quantities might or might not cause speculation.

Declassified/Released on 23 June 1987
under provisions of E.O. 12356
By B. Reger, National Security Council

(1272)

UNCLASSIFIED

UNCLASSIFIED D 21526

- A further potential problem is associated with legalities of the third country transfer provisions of the Arms Export Control Act. One provision indicates that we will not authorize a third country transfer to a country we do not sell to ourselves. Another requires the third country to sign further retransfer assurances. Under the circumstances, though, these provisions probably can be overcome or deferred.

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## EXHIBIT DOD-10

~~TOP SECRET~~ UNCLASSIFIED

11[illegible]

N 28746

NATIONAL SECURITY COUNCIL

December 9, 1983

MEMO FOR ROBERT C. MCFARLANE
JOHN M. POINDEXTER

FROM: OLIVER L. NORTH

Attached are our plans to date.

[redacted]

YES ON

EXHIBIT
DOD-10

[illegible] 8 May 1987
under [illegible] E.O. [illegible]
by B. [illegible] Security Council

598

~~TOP SECRET~~ UNCLASSIFIED

UNCLASSIFIED

~~TOP SECRET~~

December 9, 1985

N 28747

## NEXT STEPS

The meetings this weekend with the Israelis and Gorbanifahr were inconclusive. Gorbanifahr refused to return to Geneva with our message that no further deliveries would be undertaken until all the hostages were released. Gorbanifahr and the Israelis both believe that if he were to pass such a message to the Iranian Prime Minister or [redacted] (who provides funds for items delivered) -- one or more of the hostages would be executed. Gorbanifahr noted that nine Hizballah leaders had been summoned to Tehran on Friday and that, given the pressures inside Lebanon, all it would take for the hostages to be killed would be for Tehran to "stop saying no."

Much of what we decide to do in the days ahead depends upon whether or not we can trust Gorbanifahr. The Israelis believe him to be genuine. Gorbanifahr's earlier game plan delivered Reverend Weir. He has proposed that we "deliver something" so that he can retain credibility with the regime in Tehran. He even suggested that the weapons delivered be useful only to the Army or Air Force (not the Revolutionary Guards) and that they be "technically disabled." He urged that, if improved HAWKs were not feasible, to at least keep the door open by some kind of delivery between now and the end of the week. He said we must recognize that if TOWs are provided that they will probably go to the Revolutionary Guards.

The Israelis have willingly consented to "kick-back" arrangement which allows Israeli control over Gorbanifahr and [redacted]. Israel believes strongly in using any means to bridge into Iran. Their last three governments over a four year period have been consistent in this theme.

Whether we trust Gorbanifahr or not, he is irrefutably the deepest penetration we have yet achieved into the current Iranian Government. There is nothing in any [redacted] which contradicts what he has told us or the Israelis over the past several months. Much of our ability to influence the course of events in achieving a more moderate Iranian Government depends on the validity of what Gorbanifahr has told us -- and his credibility as one who can "deliver" on what the Iranians need. While it is possible that Gorbanifahr is doubling us or simply lining his own pockets, we have relatively little to lose in meeting his proposal; i.e., the Israelis start delivering TOWs and no hostages are recovered. On the other hand, a supply operation now could very well trigger results he claims.

~~TOP SECRET~~
~~Declassify: OADR~~

~~TOP SECRET~~

Partially Declassified/Released on ________
under provisions of E.O. 12356
by B. Reger, National Security Council

The current situation is one in which information is incomplete, the motivation of the various participants uncertain, and our operational control tenuous in that we have had to deal exclusively through the Israelis. The near term risk to the hostages has undoubtedly been increased by Iranian "expectations" arising from earlier decisions to proceed with deliveries and by the increasing pressure against Hizballah in Lebanon. [redacted]

Our greatest liability throughout has been lack of operational control over transactions with Gorbanifahr. The Israeli contact, Schwimmer, has arranged deliveries of items which were not requested by Gorbanifahr for the Iranian military. Further, the terms which he negotiated are disadvantageous to the IDF and our ability to replenish the Israelis. It was apparent, during the meeting with McFarlane, that Gorbanifahr preferred to deliver only items useful to the Iranian military -- not the Revolutionary Guard. Despite admonishments to the contrary, Schwimmer had already arranged for the 3,300 TOWs as part of the next steps.

Schwimmer's arrangements would have exchanged the 3,300 TOWs for three hostages at a price which would not allow the IDF to recoup expenses, thus complicating our ability to replenish IDF stores. In short, most of the problems with this endeavor have arisen because [redacted] control over arrangements [redacted] the meeting [redacted] Iranians [redacted] which are [redacted] so if the in-bound aircraft has something aboard which the Iranians want. At the end of the meeting it was agreed that we would "get back" to Gorbanifahr quickly as to our next steps. He departed for Geneva to brief [redacted] to the effect that "technical difficulties remain to be overcome before further deliveries can be scheduled."

The question which now must be asked is should we take a relatively small risk by allowing (encouraging) a small Israeli-originated delivery of TOWs and hope for the best or should we do nothing? If such a delivery were to take place, we would have to plan to replenish the Israeli stocks on a "routine" basis to avoid drawing attention.

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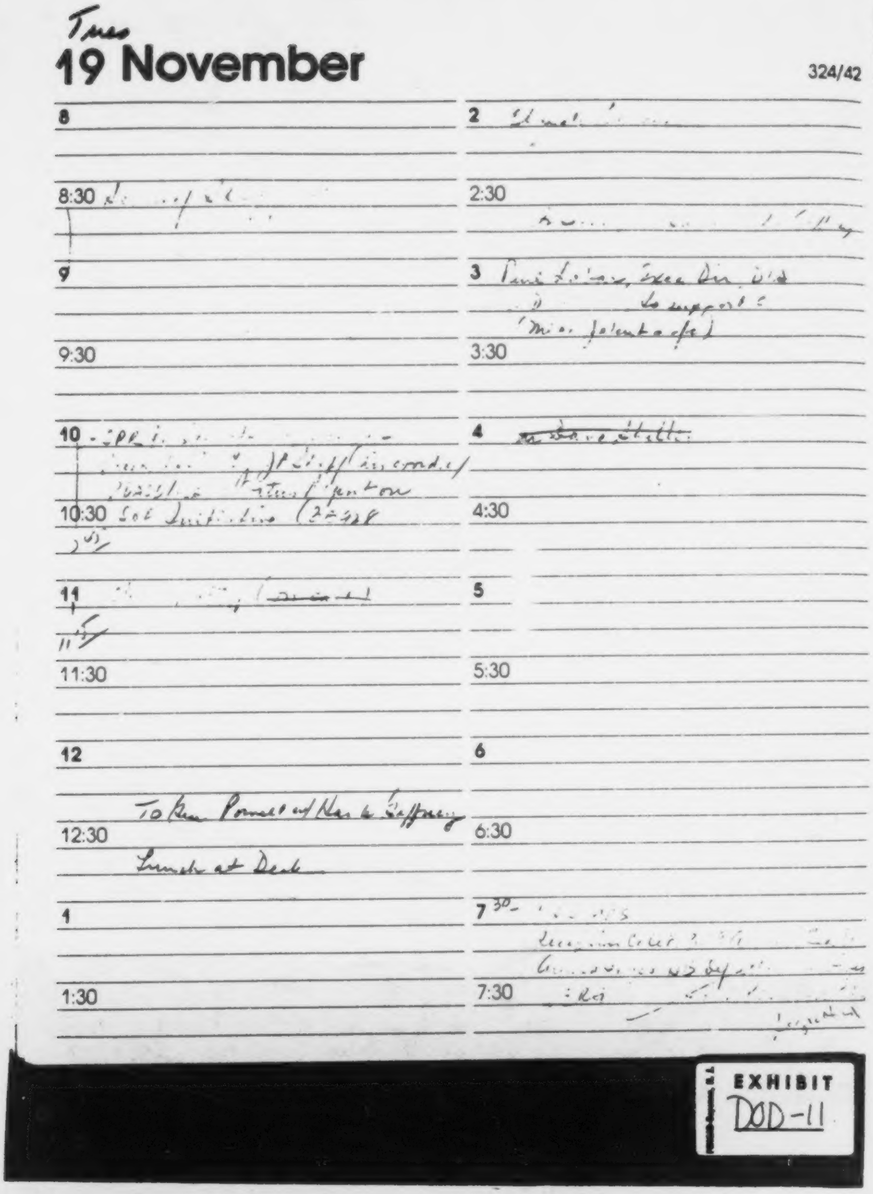
If we are to prevent the death or more of the hostages in the near future, we appear to have four options available:

- Accept Gorbanifahr/Schwimmer's game plan:
    - -- Stretch and replenishment to Israel over several months making it routine.
    - -- 1,100 TOWs are maximum risk materielly. Cost and cover can be maintained by selling from stock to Israel over time.
    - -- If hostages are recovered disclosure doesn't hurt much.
- [redacted]
- Allow the Israelis to deliver 400-500 TOWs while picking up 18 HAWKs in effort to show good faith to both factions in Iran:
    - -- This could cause Iran to deliver a hostage as sign of cooperation. It will also serve to boost Gorbanifahr's reputation.
    - -- Israel could do this unilaterally and seek routine replacements.
    - -- This gives U.S. more breathing time (maybe!).
- Do nothing:
    - -- Very dangerous since U.S. has, in fact, pursued earlier Presidential decision to play along with Gorbanifahr's plan. U.S. reversal now in mid-stream could ignite Iranian fire -- hostages would be our minimum losses.

There is a fifth option which has not yet been discussed. We could, with an appropriate covert action Finding, commence deliveries ourselves, using Secord as our conduit to control Gorbanifahr and delivery operations. This proposal has considerable merit in that we will reduce our vulnerabilities in the replenishment of Israeli stocks and can provide items like the Improved HAWK (PIP II) which the Iranian Air Force wants and the Israelis do not have. Finally, Secord can arrange for third country nationals to conduct a survey of ground and air military requirements which is what Gorbanifahr has been attempting to obtain from the Israelis for nearly three months.

## EXHIBIT DOD-11



Tues

19 November

324/42

8

8:30 [illegible]

9

9:30

10 [illegible]

[illegible] conduct

[illegible] report on

10:30 Sol [illegible] (2-[illegible]

11 [illegible]

11:30

12

To Ken [illegible] Gaffney

12:30

Lunch at Desk

1

1:30

2 [illegible]

2:30

[illegible]

3 [illegible], Exec Dir, [illegible]

[illegible] to support

(Mi[illegible])

3:30

4 ~~[illegible]~~

4:30

5

5:30

6

6:30

7^30 - [illegible]

[illegible]

[illegible] US [illegible]

7:30 [illegible]

[redacted]

EXHIBIT

DOD-11

Thurs
2 January

2/364 3/36

8

8:30

9

9:30

10

10:30

11

11:30
11^45 dep. [illegible]

12 - [illegible] ([illegible])
@ [illegible] Restaurant
1211 Conn. Ave. [illegible]

12:30

1
1^15 dep. [illegible] for [illegible]

1:30
1^45 Mr. [illegible]

2

2:30

3

3:30 [illegible]
NSC & OTC [illegible]
re [illegible] Corp

4

4:30

5

5:30

6

6:30

7

7:30

8
8:3
6^00
9
9:3
10
10:
11
11
12
12
1
1:

[redacted]

[illegible] 1/3/86 [illegible]
[illegible]

Fri
## January 3

2/364

3/363

8

8:30
$8^{00}$ [illegible]

9 Dep Sec Def [illegible]

9:30

10 [illegible]

10:30
$10^{30}$ Maj [illegible]

11

11:30

12 To lunch [illegible]

12:30

1

1:30

2

2:30
[illegible]

3 [illegible]
[illegible]

3:30

4

4:30
— [illegible]

5

5:30 [illegible] $5^{30}$ [illegible]

6

6:30

7
[illegible]

7:30
$7^{45}$ [illegible]

[redacted]

[illegible]

Tues
# January 7

Epiphany
6/360

7/359

8

8:30 [illegible] Staff Mtg

9
9¹⁵ [illegible]

9:30

10

10:30

11⁰⁰ NSC [illegible]
[illegible]

11

11:30

12

12:30
12⁴⁵ To [illegible] w/ Richard [illegible] ([illegible]).

1

1:30 Geo [illegible]

2 - [illegible]
2⁰⁵ [illegible] ([illegible])
2⁰⁵ [illegible]
2:30
2⁴⁰ [illegible]

3 [illegible]

[illegible]

3:30 [illegible]
[illegible]

4

4:30 [illegible]

5
[illegible]
#740-2[illegible]
5th day [illegible]

5:30 [illegible] Mtg [illegible]
Rm 310 [illegible]

6

6:30 [illegible]

7

7:30

[redacted]

[illegible]

Wed

# 8 January

8/358

8

8:30 [illegible]

8:45 [illegible]

9 [illegible] Staff

9:30

10

10:30

11 [illegible] papers

11:30 ([illegible])

11:45 Dep [illegible] the Capitol Hill [illegible]

300 [illegible]

12 – [illegible] – private [illegible]

followed by

12:30 – Lunch [illegible]

([illegible])

[illegible]

1 Dep [illegible] w/ Ollie North

1:30

2

2:30 [illegible]

3:00–3:50 [illegible] Davis

3

3:30 [illegible]

4

4:30 [illegible]

4:50 To [illegible]

5

5:00 [illegible]

5:30

6

6:30

7

7:30

[redacted]

[illegible]

Thurs

9/357

## January 9

8

8:30 [illegible]

9

9:30 [illegible]

[illegible]

10 [illegible]

10:30

11^05 [illegible]

11:30

11^50 [illegible]

12 [illegible]

12:30

12^55 [illegible]

1 - [illegible]

1:30

2

[illegible] [illegible]

[illegible] = [illegible]

2:30 - [illegible]

[illegible] 2236

3

3:30

4

4:30

[illegible]

5

5:30 [illegible]

6 [illegible]

[illegible]

6:30

6^35 [illegible]

6^55 [illegible]

[illegible]

7:30

[redacted]

[illegible]

Fri

# 10 January

Alexande
Born 1757
10/3
11/355

8

8:30 [illegible]

$8^{45}$ DASD [illegible] (4E808)

9 [illegible]

9:30

10 – Amb Pelletreau

$10^{10}$

10:30

$10^{30}$ To [illegible] Powell

11

11:30

$11^{45}$ Meet [illegible]

12 – Luncheon Maison Blanche

12:30

1

1:30

2

2:30 Tim Davidson

$2^{45}$ Glenn Rudd

3

$3^{15}$ [illegible] re LIW Conf.
w/ Tim Davidson

3:30

$3^{45}$ [Davidson [illegible]]

4

4:30

$4^{45}$ Dep [illegible]
Mr Wilkins
721-[illegible]

5 [illegible]
[illegible] NW ([illegible])

5:30

6 dep airport f. [illegible]

6:30

$7^{45}$ dep for
$8^{00}$ [illegible]
Key [illegible]

7:30

8

8:30

9

9:30

10 – 6

10:30

11

11:30

12

12:30

1

1:30

[redacted]

Alexander Hamilton
Born 1757
10/356 11/355

Sat
## January 11

8
8:30
9
9:30
10 - GEICO [illegible] - [illegible]
[illegible] [illegible] 3380)
Claim
10:30
11
11:30
12
12:30
1
1:30

2
2:30
3
3:30
4
4:30
5
5:30
6
6:30
7
7:30

[redacted]

Sun

## 12 January

12/354

8

8:30

9

9:30

10

10:30

11

11:30

12

12:30

1

1:30

2

2:30

3

3:30

4

4:30

5

5:30

6

6:30

7

7:30

[redacted]

[illegible]

# January 13

/354 13/353

8 [illegible]
[illegible]
8:30
9
9:35 Mr Armitage (Pearce)
9:45
10:05 Dr Iklé Conf call
10:30
10:35 – 10:45 w Mr Armitage
11
11:30
12 Lunch w/ Mort Silberman
12:30
1:15 Mr Jones, VP [illegible] in Military Program. Boeing, w/ Mr [illegible]
1:30
1:45 [illegible] CPPG
Mr [illegible] 741-5442

2 CPPG in White House Sit Room w/ Dr Iklé
2:30
3
3:30
4 Dale van Atta
4:30
5
5:30
6
6:30
7 [illegible]
7:30

[redacted]

Tues [illegible]
[illegible] [illegible] [illegible]

# 14 January

14/35

8

8:30

9 [illegible]

9:30
[illegible] [illegible]

~~10~~9⁵⁰ To SecDef.

10:30
[illegible]
10⁵⁰ [illegible]
11⁰ [illegible]
11²⁵

11:30 Ben Schemmer pick-up
11⁵⁵ Meet at [illegible]

12

12:30

1

1:30

2

2:30

3

3:30 To SecDef
re [illegible] Speech
[illegible]

4

4:30

5

5:30 - [illegible]

6

6:30

7 - [illegible]

7:30

[redacted]

[illegible]

Fri

# January 17

16/350 17/349

[illegible]

8

8:30 [illegible]
[illegible]

9 [illegible]

9:30

10

10:30

11

[illegible]

11:30 [illegible]
[illegible]

12

12:30

1 [illegible]

1:30
[illegible]

Mr. MacKenzie
740-354

2 [illegible]
[illegible]
[illegible]

2:30

3

3:30

4

4:30 [illegible]

5 Ret'd

5:30

6 [illegible]

6³⁰

6:30

7

7:30

[redacted]

Fri

# 24 January

8 Dentist - Dr Pascal
1234 5th St. Suite 5?? [illegible]

8:30 ~~[illegible]~~ a Kern
8^30 ~~[illegible]~~ [illegible]

9 [illegible]

9:30

10

10^30 [illegible]
10:30 [illegible]
10^45 [illegible] (Thor)
11^00
11 [illegible]

11:30

12

12:30

1
1^15 [illegible] at Fed

1:30 KAGOR Briefing followed by [illegible] Briefing — NCIC did not attend

2

2:30

3 [illegible]

3:30
3^45 Gen [illegible]

4

4:30

5 [illegible]

5:30
[illegible]

6^00 [illegible]

6:30 [illegible]

7

7:30

24/34 Conv 25/34
8
8:30
9
9:30
10
10:3
11
11:3
12
12:3
1
1:3

[redacted]

Tues
## March 11

70/296

71/295

8

8:30

9

9:30

10

10:30

11

11:30

12 ~~[illegible]~~ [illegible]

12:30

1

1:30

2

2:30

3

3:30

4

4:30

5

[illegible]
[illegible]

5:30

6

6:30
645 [illegible]

7 [illegible]
7[illegible] [illegible]

7:30 [illegible] - [illegible]
7[illegible] [illegible]

[redacted]

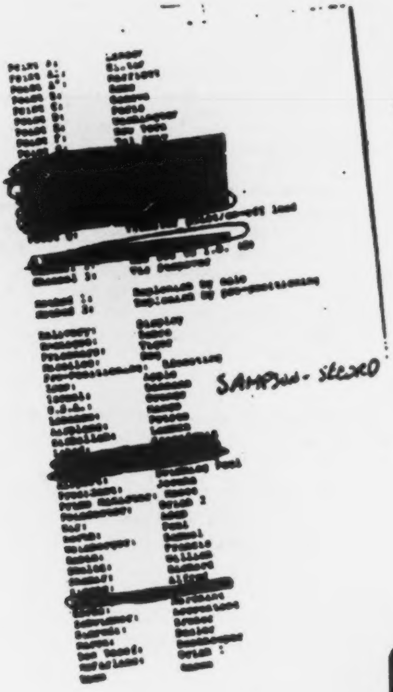
## EXHIBIT DOD-13

UNCLASSIFIED

N 9907
RECEIVED
FBI
NOV 29 1986

Copy is Receipt

[redacted]



[redacted]

[redacted]

[redacted]

[redacted]

SAMPSON - SECORD

EXHIBIT
DOD-13

T 113

852

Partially Declassified/Released on 12 May 1987
under provisions of E.O. 12356
by C. Reger, National Security Council

256

## Exhibit DOD-14

*** Reply to note of 08/31/85 [illegible].26 11..

[redacted]

N 28733

NOTE FROM: OLIVER NORTH
Subject: PRIVATE BLANK CHECK
Continuation of last note (hit SEND when I meant to hit ADD LINES) ...
Casey believes that Cap will continue to create roadblocks until he is told by you that the President wants this to move NOW and that Cap will have to make it work. Casey points out that we have now gone through three different methodologies in an effort to satisfy Cap's concerns and that no matter what we do there is always a new objection. As far as Casey is concerned our earlier method of having Copp deal directly with the DoD as a purchasing agent was fine. He did not see any particular problem w/ making Copp an agent for the CIA in this endeavor but he is concerned that Cap will find some new objection unless he is told to proceed. Colin Powell, who sat next to me during Cap's speech asked the following questions (my answers are indicated):

Q. Does Copp deal w/ Iranians or Israelis?
A. With the Israelis.

Q. Is the intelligence a prerequisite?
A. It is probably something that can be negotiated but in any event it is not a DoD matter. It is covered in the finding and is in fact one of the few means we have to make a long term penetration in Iran. Our ultimate objective of changing/moderating the govt. is served by this.

Q. What cost are the Israelis willing to pay for the basic TOWS?
A. They (thru Copp) have funds to pay Fair Market Value (FMV should be about $4900-5400 ea. depending on age) and to cover the cost of transportation. They do not have enough to pay for I TOW (about $9500 ea or TOW II ((about $15000 ea.). We have frequently sold the Israelis weaps/materiel at FMV vice the replacement cost to the U.S. Since we have over 100K of the basic TOW in our inventory and cannot even use it in training due to its age, we ought to look at this as an opportunity to collect on a weapon which we aren't using (all are in PWR according to Koch) and will eventually have to dispose of because we cannot sell them off otherwise. (I'm told that Hughes Acft, the mfgr. has an agreement w/ DoD that all normal FMS transactions will be handled as a producer sale in order to keep DoD fm undercutting the production line by selling off old stocks).

The most recent proposal (Copp as agent for the CIA and sales to the Israelis who then deliver weaps to the Iranians) can only work if we can get the Israelis to come up on their price. I have been unable to contact NIR who is in Europe for a meeting. He still does not know that we are aware that the Iranians have offered $10K per TOW. He has however left a message that we must have a go/no go decision today and that conditions in Brt. continue to deteriorate.
You shd also have seen

[illegible] 4 MAY '87.
under provisions of [illegible]
by [illegible] National Security Council

U1.

EXHIBIT
DOD-14

## Exhibit DOD-15

June 17, 1987

Major General Richard V. Secord
Anna Maria Court
McLean, Virginia 22101

Dear Dick:

Pursuant to Article 5 of the Trust Agreement of the Richard Secord Legal Assistance Fund executed in February of this year, I hereby resign as Trustee.

With best regards.

Sincerely,

Noel C. Koch

NC/mlt

cc: Trust Department
Riggs National Bank
Westbridge Branch
2550 M Street, N.W.
Washington, D.C. 20037

Middleton A. Martin, Esq.
Patton, Boggs & Blow
2550 M Street, N.W.
Washington, D.C. 20037

EXHIBIT
DOD-15

## EXHIBIT DOD–12

[redacted] [redacted] D 21546 DX 2

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
INTERNATIONAL SECURITY AFFAIRS
AFRICA REGION

[redacted]

MEMO FOR

4/ TOW discussed repeatedly w/ Rudd & Gaffney in Dec.

[redacted]

4/ TOW paper locked in Rich's safe, meanwhile check Rudd has copy. !

Original was 3000. definitely twice number in stock.

No way to keep transfer secret.

Koch said told possibility of [illegible] way to do it blind.

Thompson finally mooted abstract solution – one of use Fund to waive Sec. 36B (notice to Hill)

CIA purchases ([illegible]) [illegible]

x for. / Replace w/ TOW's [illegible]

EXHIBIT
DOD-12

## EXHIBIT DOD–16

UNCLASSIFIED

N 1331

- [illegible] for [illegible]
- access before transition
- Fear of society - left inside
- Anti welfare - terrorism
- Tactical success in near-term could be to our advantage in that it offers opportunity for settlement.

= People who know

- Shultz
- Weinberger
  Powell
  Koch
- Casey
  · [redacted]
  · McMahon
  · Allen
  · Gates
- RR
  JMP
  Don R.
  Don F
  VP
  Peter
  Howard.

Partially Declassified/Released on 22 June 1987 under provisions of E.O. 12356 by B. Reger, National Security Council

1246

EXHIBIT DOD-16

N 409A (BACK OF N40[illegible]

# EXHIBIT SS-1

UNCLASSIFIED

[illegible]1

From [redacted] shorthand notes, 25 November 1985

I have been briefed on the efforts being made by private parties to obtain the release of Americans held hostage in the Middle East. I find it in the national interest to provide whatever assistance necessary to assist in that endeavor. Accordingly, I am directing the CIA to provide whatever assistance it can to those private parties in their attempt to achieve the release of the Americans held hostage. Such assistance is to include the provision of transportation, communications, and other support necessary to achieve this important objective. I understand that as part of these efforts certain foreign material and munitions may be provided to the Government of Iran which is taking steps to facilitate the release of the Americans held hostage.

Because of the extreme sensitivity of this operation, in the exercise of my constitutional authorities I order the Director of Central Intelligence not to brief the Congress of the United States as provided for in section 501 of the National Security Act of 1947, as amended, until such time as I may direct otherwise.

This written finding ratifies all actions taken by U.S. Government officials in furtherance of this effort.

(1116)

Partially Declassified/Released on 22 June 1987
under provisions of E.O. 12356
by B. Reger, National Security Council

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UNCLASSIFIED

C111D) 1354

SS-1

## EXHIBIT SS-2

WASHINGTON D C 20505

General Counsel

UNCLASSIFIED

26 November 1985

C

NOTE FOR THE DIRECTOR

RE: Presidential Finding on
Middle East

Bill:

Here is a ribbon copy of the Finding we discussed this morning. This is the copy which should be executed.

/s/
Stanley Sporkin

Attachment

I

A

CIIN 2917

UNCLASSIFIED

EXHIBIT
SS-2

SS-2

## EXHIBIT SS-3

Washington D.C. 20505

UNCLASSIFIED

26 November 1985

I 0400

MEMORANDUM FOR: Vice Admiral John M. Poindexter, USN
Deputy Assistant to the President
for National Security Affairs

SUBJECT: Presidential Finding on Middle East

Pursuant to our conversation this should go to the President for his signature and should not be passed around in any hands below our level.

William J. Casey

[redacted]

Attachment:
As stated

CL BY 00C8074
RVW OADR

[redacted]

527

Partially Declassified/Released on 7 May 1987
under provisions of E.O. 12356
by B. Reger, National Security Council

EXHIBIT
SS-3

SS-3 133

## EXHIBIT SS–4

[illegible]

**Finding Pursuant to Section 662 of the Foreign Assistance Act of 1961, As Amended, Concerning Operations Undertaken by the Central Intelligence Agency in Foreign Countries, Other Than Those Intended Solely for the Purpose of Intelligence Collection**

0401

I have been briefed on the efforts being made by private parties to obtain the release of Americans held hostage in the Middle East, and hereby find that the following operations in foreign countries (including all support necessary to such operations) are important to the national security of the United States. Because of the extreme sensitivity of these operations, in the exercise of the President's constitutional authorities, I direct the Director of Central Intelligence not to brief the Congress of the United States, as provided for in Section 501 of the National Security Act of 1947, as amended, until such time as I may direct otherwise.

| SCOPE | DESCRIPTION |
|---|---|
| Hostage Rescue - Middle East | The provision of assistance by the Central Intelligence Agency to private parties in their attempt to obtain the release of Americans held hostage in the Middle East. Such assistance is to include the provision of transportation, communications, and other necessary support. As part of these efforts certain foreign materiel and munitions may be provided to the Government of Iran which is taking steps to facilitate the release of the American hostages.<br>All prior actions taken by U.S. Government officials in furtherance of this effort are hereby ratified. |

The White House
Washington, D.C.

7 May 1987

Date:

[redacted]

ER [illegible]
CY ___ OF ___ CYS

EXHIBIT
SS-4

SS-4

# EXHIBIT SS-5

TOP SECRET
UNCLASSIFIED

N 29746

NATIONAL SECURITY COUNCIL

December 9, 1985

MEMO FOR ROBERT C. MCFARLANE
JOHN M. POINDEXTER

FROM: OLIVER L. NORTH

Attached are our plans to date.

EYES ONLY

[illegible] 8 May 1987
[illegible]
[illegible]

598

UNCLASSIFIED

EXHIBIT
SS-5

025

SS-5

UNCLASSIFIED

~~TOP SECRET~~

December 9, 1985
N 28747

## NEXT STEPS

The meetings this weekend with the Israelis and Gorbanifahr were inconclusive. Gorbanifahr refused to return to Geneva with our message that no further deliveries would be undertaken until all the hostages were released. Gorbanifahr and the Israelis both believe that if he were to pass such a message to the Iranian Prime Minister or [redacted] (who provides funds for items delivered) -- one or more of the hostages would be executed. Gorbanifahr noted that nine Hizballah leaders had been summoned to Tehran on Friday and that, given the pressures inside Lebanon, all it would take for the hostages to be killed would be for Tehran to "stop saying no."

Much of what we decide to do in the days ahead depends upon whether or not we can trust Gorbanifahr. The Israelis believe him to be genuine. Gorbanifahr's earlier game plan delivered Reverend Weir. He has proposed that we "deliver something" so that he can retain credibility with the regime in Tehran. He even suggested that the weapons delivered be useful only to the Army or Air Force (not the Revolutionary Guards) and that they be "technically disabled." He urged that, if improved HAWKs were not feasible, to at least keep the door open by some kind of delivery between now and the end of the week. He said we must recognize that if TOWs are provided that they will probably go to the Revolutionary Guards.

The Israelis have willingly consented to "kick-back" arrangement which allows Israeli control over Gorbanifahr and [redacted] Israel believes strongly in using any means to bridge into Iran. Their last three governments over a four year period have been consistent in this theme.

Whether we trust Gorbanifahr or not, he is irrefutably the deepest penetration we have yet achieved into the current Iranian Government. There is nothing in any [redacted], which contradicts what he has told us or the Israelis over the past several months. Much of our ability to influence the course of events in achieving a more moderate Iranian Government depends on the validity of what Gorbanifahr has told us -- and his credibility as one who can "deliver" on what the Iranians need. While it is possible that Gorbanifahr is doubling us or simply lining his own pockets, we have relatively little to lose in meeting his proposal; i.e., the Israelis start delivering TOWs and no hostages are recovered. On the other hand, a supply operation now could very well trigger results he claims.

~~TOP SECRET~~
~~Declassify: OADR~~

~~TOP SECRET~~

Partially Declassified/Released on ________
under provisions of E.O. 12356
by B. Reger, National Security Council

The current situation is one in which information is incomplete, the motivation of the various participants uncertain, and our operational control tenuous in that we have had to deal exclusively through the Israelis. The near term risk to the hostages has undoubtedly been increased by Iranian "expectations" arising from earlier decisions to proceed with deliveries and by the increasing pressure against Hizballah in Lebanon. [redacted]

Our greatest liability throughout has been lack of operational control over transactions with Gorbanifahr. The Israeli contact, Schwimmer, has arranged deliveries of items which were not requested by Gorbanifahr for the Iranian military. Further, the terms which he negotiated are disadvantageous to the IDF and our ability to replenish the Israelis. It was apparent, during the meeting with McFarlane, that Gorbanifahr preferred to deliver only items useful to the Iranian military -- not the Revolutionary Guard. Despite admonishments to the contrary, Schwimmer had already arranged for the 3,300 TOWs as part of the next steps.

Schwimmer's arrangements would have exchanged the 3,300 TOWs for three hostages at a price which would not allow the IDF to recoup expenses, thus complicating our ability to replenish IDF stores. In short, most of the problems with this endeavor have arisen because we have been unable to exercise operational control over arrangements or their expected outcome. For example, at the meeting with McFarlane we learned for the first time that the Iranians want desperately to return the 18 basic HAWK missiles which are still in Tehran. All agree that we should only do so if the in-bound aircraft has something aboard which the Iranians want. At the end of the meeting it was agreed that we would "get back" to Gorbanifahr quickly as to our next steps. He departed for Geneva to brief [redacted] to the effect that "technical difficulties remain to be overcome before further deliveries can be scheduled."

The question which now must be asked is should we take a relatively small risk by allowing (encouraging) a small Israeli-originated delivery of TOWs and hope for the best or should we do nothing? If such a delivery were to take place, we would have to plan to replenish the Israeli stocks on a "routine" basis to avoid drawing attention.

If we are to prevent the death or more of the hostages in the near future, we appear to have four options available:

- Accept Gorbanifahr/Schwimmer's game plan:
  - -- Stretch and replenishment to Israel over several months making it routine.
  - -- 1,100 TOWs are maximum risk materielly. Cost and cover can be maintained by selling from stock to Israel over time.
  - -- If hostages are recovered disclosure doesn't hurt much.
- [redacted]
- Allow the Israelis to deliver 400-500 TOWs while picking up 18 HAWKs in effort to show good faith to both factions in Iran:
  - -- This could cause Iran to deliver a hostage as sign of cooperation. It will also serve to boost Gorbanifahr's reputation.
  - -- Israel could do this unilaterally and seek routine replacements.
  - -- This gives U.S. more breathing time (maybe!).
- Do nothing:
  - -- Very dangerous since U.S. has, in fact, pursued earlier Presidential decision to play along with Gorbanifahr's plan. U.S. reversal now in mid-stream could ignite Iranian fire -- hostages would be our minimum losses.

There is a fifth option which has not yet been discussed. We could, with an appropriate covert action Finding, commence deliveries ourselves, using Secord as our conduit to control Gorbanifahr and delivery operations. This proposal has considerable merit in that we will reduce our vulnerabilities in the replenishment of Israeli stocks and can provide items like the Improved HAWK (PIP II) which the Iranian Air Force wants and the Israelis do not have. Finally, Secord can arrange for third country nationals to conduct a survey of ground and air military requirements which is what Gorbanifahr has been attempting to obtain from the Israelis for nearly three months.

~~TOP SECRET~~ UNCLASSIFIED N 28750

~~TOP SECRET~~

December 5, 1985

## SPECIAL PROJECT RE IRAN

**Background:** Several months ago, one of the agents engaged in shipping materiel to the Nicaraguan resistance noted the presence of U.S. military stocks in a [redacted] warehouse. Inquiries indicated that the military materiel was of Israeli origin being shipped by a private company for sale to Iran. When we approached a high-level Israeli official with this knowledge, we were advised that the GOI was not "technically violating" the U.S. ban on shipments to Iran in that the sales were being undertaken by a non-governmental entity [redacted] We were told that each aircraft that delivered arms to Iran, returned to Israel [redacted]

In discussing the matter with the Israelis, they indicated that their objectives in "permitting" this activity were threefold:

-- Use the arms sales to build the credibility of moderate elements in the Iranian army in hopes that they would become sufficiently powerful to establish a more reasonable government in Tehran.

-- Deliver sufficient military materiel to ensure that the Iranian military does not collapse under the pressure of an increasingly effective Iraqi military effort.

[redacted]

In early September, in order that we not take action to terminate the arms sales, the Israelis proposed that this process be used as leverage to recover the American citizens held hostage in Lebanon. It was decided to test the validity of this proposal and on September 14, the Israelis, using chartered aircraft, delivered 500 TOW missiles to Tabriz, Iran. Prior to commencing this operation, we committed to the Israelis that we would sell them replacements for the items they had sold and delivered to Iran. Two days later Reverend Benjamin Weir was released.

~~TOP SECRET~~
~~Declassify: OADR~~

UNCLASSIFIED

127

UNCLASSIFIED N 2875[illegible]

Current Situation: The Iranians have significant interest in continuing this process. They are under extraordinary military pressure from Iraq and are, by their own admission, subject to regular overflights of Iranian territory by Soviet aircraft. They currently have no capability to deal with this affront and find themselves in an increasingly desperate situation vis-a-vis Iraq. They have urged the Israelis, with whom they are in contact, to continue the process which resulted in the release of Benjamin Weir.

Our continuing efforts to achieve release of the hostages through diplomatic and other means have proven fruitless. There are numerous indications including reports from the special representative of the Archbishop of Canterbury, Terry Waite, that time is running out for the hostages. We are relatively confident of information that former Beirut Chief of Station, Bill Buckley is dead. [redacted]

The Iranians, who have been in contact with the Israelis, are cognizant of the pressure being placed on their Hizballah surrogates in Lebanon and that it is entirely likely that the only leverage they will have over us (the hostages) may no longer be available in the near future. These Iranians, the same that arranged the release of Weir, have now proposed that in exchange for an immediate delivery of 3,300 TOW missiles and 50 Improved HAWK Surface-to-Air missiles from Israel, they will guarantee:

-- The release of the five Americans and one of the French hostages still being held.

-- No further acts Shia fundamentalist terrorism (hijackings; bombings, kidnappings) directed against U.S. property or personnel.

There is considerable reason not to accept this proposal. It is contrary to our stated policy of not making concessions to terrorists or those who sponsor them. It is also possible that such an arrangement is a "double-cross" in that the Iranians can not or will not release the captives as agreed. Such an arrangement, bartering for the lives of innocent human beings, is repugnant. Finally, the quantities which the Iranians wish to purchase will significantly degrade Israeli stockpiles and require very prompt replenishment.

~~TOP SECRET~~ 030

~~TOP SECRET~~

UNCLASSIFIED

128

**U.S. Interests:** Notwithstanding the undesirable nature of such a transaction, it must be noted that the first two Israeli objectives are congruent with our own interests:

-- A more moderate Iranian government is essential to stability in the Persian Gulf and MidEast.

-- Such a change of government in Iran is most likely to come about as a consequence of a credible military establishment which is able to withstand the Iraqi onslought and deter Soviet adventurism/intimidation. The Iranian army (not the Revolutionary Guards) must be capable of at least stalemating the war.

-- Shia fundamentalist terrorism is a serious threat to the United States which has long-term adverse consequences for our interests and we must endeavor to stop its spread.

-- The return of the American hostages will relieve a major domestic and international liability -- in addition to its obvious humanitarian aspect.

The first three of these goals may well be achievable -- and the fourth accrued as a subsidiary benefit -- by commencing the process of allowing the Israeli sales as proposed by the Iranian agents in Europe. It is unlikely, however, that we can proceed further toward the first three -- and not at all on the hostage release unless we allow the process of delivery to begin.

Discussions toward this end have been proceeding among the Israelis, Iranians and a U.S. businessman acting privately on behalf of the USG for nearly three weeks. There are several indications of confidence that an arrangement can be consummated in the next 10 days which would result in the release of the hostages and commencement of a process leading toward the first three objectives above. The military situation in the Iran/Iraq war and the increasing pressure on the Hizballah in Lebanon both point toward immediate action. There is also, as the Iranian intermediaries pointedly noted last week, a complete absence of _any_ Shia fundamentalist hijackings, assassinations, hostage seizures, or bombings since this dialogue began in September. While there have not been expressed or implied threats by the Iranians in these discussions, the Israeli and U.S. private citizen participants believe that if the current effort is not at least tried, we run the risk of abandoning both the longer term goals and the likelihood of reprisals against us for "leading them on." These reprisals would probably take the form of additional hostage seizures, execution of some/all those now held, or both.

129

Next Steps: The Iranians, the Israelis, and our U.S. businessman plan to meet in London on Saturday, December 6 to discuss whether or not to proceed with the sale of the TOWs and HAWKs. The Israeli government has informally told us that if they can be assured of "prompt" resupply, they will sell the quantities requested from their prepositioned war reserve. 3,300 TOWs represents approximately half their available supplies.

The U.S. businessman has arranged for the charter of two non-U.S. registered aircraft for use in the deliveries. The total delivery would be conducted in 5 flights from Tel Aviv to Tabriz, Iran via interim airfields in Europe prior [redacted] Each delivery is to result in the release of a specified number of hostages. Arrangements for the interim airfields, overflight rights, and flight plans have been made, some with the help of the CIA. A communications code to preserve operational security is available for use by all parties. All aircraft would be inspected by an Iranian at one of the transient locations between Tel Aviv and Tabriz. The entire evolution is designed to be completed in a 24 hour period. It can be stopped at any point if the Iranians fail to deliver.

The greatest operational security concern is that of replenishing Israeli stocks. The Israelis have identified a means of transferring the Iranian provided funds to an Israeli Defense Force (IDF) account, which will be used for purchasing items not necessarily covered by FMS. They will have to purchase the replenishment items from the U.S. in FMS transaction from U.S. stocks. Both the number of weapons and the size of the cash transfer could draw attention. If a single transaction is more than $14.9 M, we would normally have to notify Congress. The Israelis are prepared to justify the large quantity and urgency based on damage caused to the equipment in storage.

[redacted]

If this process achieves the release of the hostages and proves the credibility of the Iranian contacts in Europe, Bud McFarlane would then step in to supervise achieving the longer range goals. Additional meetings with the Iranians would be arranged to further our objectives without requiring such large scale sales/deliveries by the Israelis.

Approval is now required for us to take the next steps on Saturday. After carefully considering the liabilities inherent in this plan, it would appear that we must make one last try or we will risk condemning some or all of the hostages to death and undergoing a renewed wave of Islamic Jihad terrorism. While the risks of proceeding are significant, the risks of not trying are even greater.

~~TOP SECRET~~

~~TOP SECRET~~

032

130

## EXHIBIT SS–6

C 2865

### Finding Pursuant to Section 662 of The Foreign Assistance Act of 1961 As Amended, Concerning Operations Undertaken by the Central Intelligence Agency in Foreign Countries, Other Than Those Intended Solely for the Purpose of Intelligence Collection

I hereby find that the following operation in a foreign ountry (including all support necessary to such operation) is nportant to the national security of the United States, and irect the Director of Central Intelligence, or his designee, o report this Finding to the intelligence committees of the ongress pursuant to Section 501 of the National Security Act f 1947, as amended, and to provide such briefings as ecessary.

| SCOPE | DESCRIPTION |
|---|---|
| Iran | Work with individuals and organizations both within and outside of Iran, and with selected foreign liaison services, and other foreign government entities, to identify, develop and promote the advancement of moderate alternative leaders in Iran. Provide intelligence, counterintelligence, communications assistance and funding to the identified potential alternative leaders to promote the establishment of a more moderate government in Iran and thus reduce the threat of terrorism directed against U.S. persons, property and interests. Protect and support these operations by conducting a program of deception, unilaterally and through third countries, which may include the use of all forms of propaganda.<br>Provide arms, equipment and related materiel to the Government of Iran to assist in its military operations against Iraq in order to encourage to curtailment of terrorist activity directed against U.S. targets and interests. This assistance will be terminated if the U.S. Government learns that this materiel is being used for purposes other than the furthera[illegible] Iran's war effort against Iraq. |

UNCLASSIFIED

rhe White House
Jashington, D.C.
Date: 2 January 1986

~~TOP SECRET~~ [redacted]

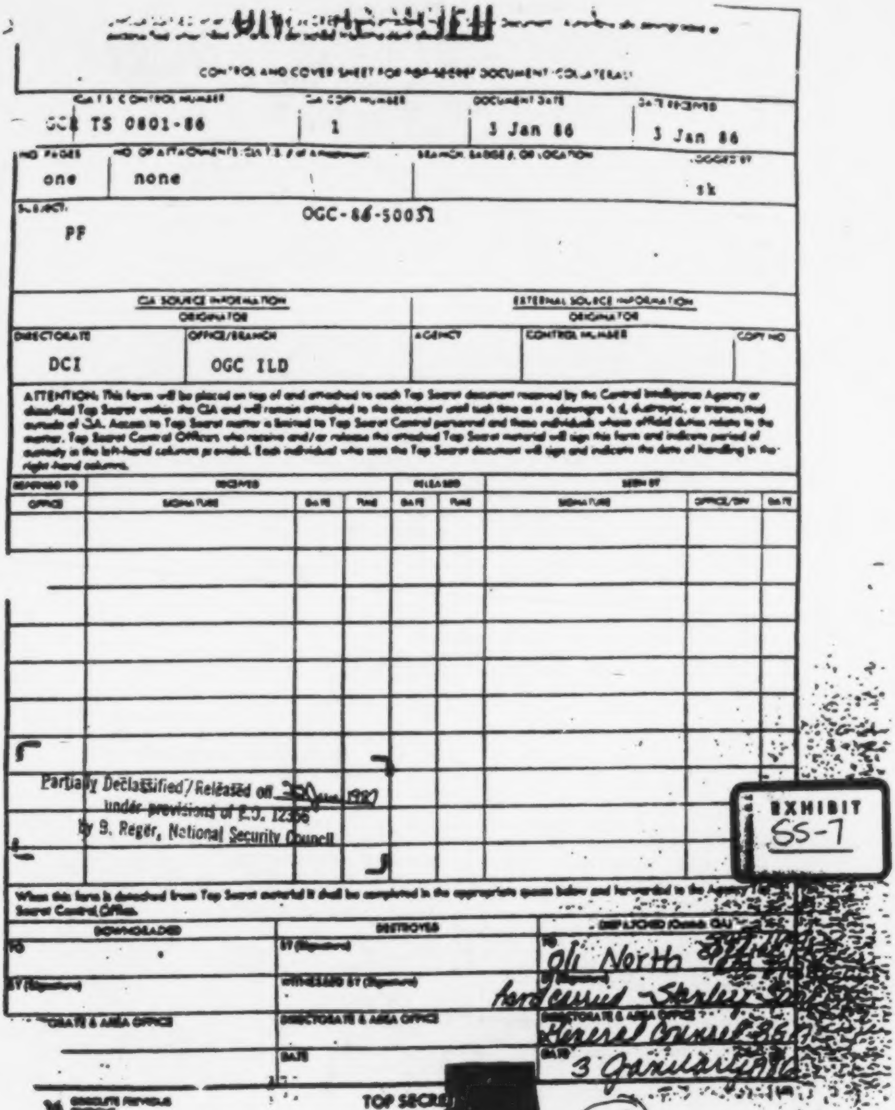
[illegible] 32,570

EXHIBIT
SS-6

1337

SS-6

## EXHIBIT SS-7



CONTROL AND COVER SHEET FOR TOP SECRET DOCUMENT (COLLATERAL)

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| CIA T.S. CONTROL NUMBER<br>OGC TS 0801-86 | CIA COPY NUMBER<br>1 | DOCUMENT DATE<br>3 Jan 86 | DATE RECEIVED<br>3 Jan 86 |
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SUBJECT: PF OGC-86-50051

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ATTENTION: This form will be placed on top of and attached to each Top Secret document received by the Central Intelligence Agency or classified Top Secret within the CIA and will remain attached to the document until such time as it is downgraded, destroyed, or transmitted outside of CIA. Access to Top Secret matter is limited to Top Secret Control personnel and those individuals whose official duties relate to the matter. Top Secret Control Officers who receive and/or release the attached Top Secret material will sign this form and indicate period of custody in the left-hand columns provided. Each individual who sees the Top Secret document will sign and indicate the date of handling in the right-hand columns.

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Partially Declassified/Released on 30 June 1987
under provisions of E.O. 12356
by B. Reger, National Security Council

EXHIBIT
SS-7

When this form is detached from Top Secret material it shall be completed in the appropriate spaces below and forwarded to the Agency Top Secret Control Officer.

| DOWNGRADED | DESTROYED | DISPATCHED (Outside CIA) |
|---|---|---|
| TO | BY (Signature) | TO Oli North |
| BY (Signature) | WITNESSED BY (Signature) | BY (Signature) for [illegible] - Stanley S[illegible] |
| DIRECTORATE & AREA OFFICE | DIRECTORATE & AREA OFFICE | DIRECTORATE & AREA OFFICE General Counsel 86 |
| | DATE | DATE 3 January 1986 |

OBSOLETE PREVIOUS EDITIONS

TOP SECRET [redacted]

-N #117

(1128)

220040

## EXHIBIT SS-8

[redacted]

UNCLASSIFIED
DRAFT

0454

### Finding Pursuant to Section 662 of The Foreign Assistance Act of 1961 As Amended, Concerning Operations Undertaken by the Central Intelligence Agency in Foreign Countries, Other Than Those Intended Solely for the Purpose of Intelligence Collection

I hereby find that the following operation in a foreign country (including all support necessary to such operation) is important to the national security of the United States, [and due to its extreme sensitivity and security risks, I determine it is essential to limit prior notice, and direct the Director of Central Intelligence to refrain from reporting this Finding to the Congress as provided in Section 501 of the National Security Act of 1947, as amended, until I otherwise direct.]

-or-

[and direct the Director of Central Intelligence, or his designee, to report this Finding to the intelligence committees of the Congress pursuant to Section 501 of the National Security Act of 1947, as amended, and to provide such briefings as necessary.]

PR

DESCRIPTION

a

Work with Iranian elements, groups and individuals, selected foreign liaison services and third countries, all of which are sympathetic to U.S. Government interests and which do not conduct or support terrorist actions directed against U.S. persons, property or interests, for the purpose of: (1) establishing a more moderate government in Iran, and (2) obtaining from them significant intelligence not otherwise obtainable, to determine the current Iranian Government's intentions with respect to its neighbors and with respect to terrorist acts. Provide funds, intelligence, counterintelligence, training, guidance and communications assistance to these elements, groups, individuals, liaison services and third countries in support of these activities.

Establish contact with the more moderate elements within and outside the Government of Iran to establish their credibility with that Government by the provision of arms, equipment and related materiel to these elements on condition that these materials be limited in their use essentially to the Iran-Iraqi conflict. This assistance will be discontinued if the U.S. Government learns that these elements are misusing or intend to misuse this assistance, for the purpose of reinstituting terrorist actions against U.S. persons, property or interests, or otherwise.

1113

The White House
Washington, D.C.
Date: 3 January 1986

UNCLASSIFIED

OGCR TS 0801-86
~~COPY 1~~ copy 2

~~Top Secret~~ [redacted]

CL BY ~~[illegible]~~
DECL ~~OADR~~

Partially Declassified/Released on 19 May 1987
under provisions of E.O. 12356
by S. Reger, National Security Council

EXHIBIT
SS-8

SS-7

## Exhibit SS-9

UNCLASSIFIED [redacted]

### Finding Pursuant to Section 662 of the Foreign Assistance Act of 1961 As Amended, Concerning Operations Undertaken by the Central Intelligence Agency in Foreign Countries, Other Than Those Intended Solely for the Purpose of Intelligence Collection

N 1235

I hereby find that the following operation in a foreign country (including all support necessary to such operation) is important to the national security of the United States, and due to its extreme sensitivity and security risks, I determine it is essential to limit prior notice, and direct the Director of Central Intelligence to refrain from reporting this Finding to the Congress as provided in Section 501 of the National Security Act of 1947, as amended, until I otherwise direct.

| SCOPE | DESCRIPTION |
|---|---|
| Iran | Work with Iranian elements, groups and individuals, selected foreign liaison services and third countries, all of which are sympathetic to U.S. Government interests and which do not conduct or support terrorist actions directed against U.S. persons, property or interests, for the purpose of: (1) establishing a more moderate government in Iran, and (2) obtaining from them significant intelligence not otherwise obtainable, to determine the current Iranian Government's intentions with respect to its neighbors and with respect to terrorist acts. Provide funds, intelligence, counterintelligence, training, guidance and communications assistance to these elements, groups, individuals, liaison services and third countries in support of these activities.<br>The USG will act to facilitate efforts by third parties and third countries to establish contact with moderate elements within and outside the Government of Iran by providing these elements with arms, equipment and related materiel in order to enhance the credibility of these elements in their effort to achieve a more pro-U.S. government in Iran by demonstrating their ability to obtain requisite resources to defend their country against Iraq and intervention by the Soviet Union. This support will be discontinued if the U.S. Government learns that these elements have abandoned their goals of moderating their government and appropriated the materiel for purposes other than that provided by this Finding. |

The White House
Washington, D.C.
Date: 3 January 1986

OGCR TS-0801-86
copy 1

~~TOP SECRET~~ [redacted]

Partially Declassified/Released on 22 June 1987
under provisions of E.O. 12356
by B. Reger, National Security Council

UNCLASSIFIED

1238

EXHIBIT
SS-9

## Exhibit SS–10

[illegible]

|  |  |
|---|---|
| 1 | The President |
| 2 | John M. Poindexter |
| 3 | Oliver L. North |
| 4 |  |
| 5 |  |
| 6 |  |

|  |  |
|---|---|
| ✓ ACTION | FILE |
| APPROVAL | INFORMATION |
| COMMENT | PREPARE REPLY |
| CONCURRENCE | RECOMMENDATION |
| DIRECT REPLY | RETURN |
| DISPATCH | SIGNATURE |

REMARKS

UNCLASSIFIED ch

N 1248

NSC/ICS CONTROL NO 40011

COPY NO 3A OF

HANDLE VIA SYSTEM IV CHANNEL ONLY

# NSC INTELLIGENCE DOCUMENT

Partially Declassified/Released on 23 Jun 1987
under provisions of E.O. 12356
by B. Reger, National Security Council

1268

Warning Notice
Intelligence Sources and Methods Involved
NATIONAL SECURITY INFORMATION
Unauthorized Disclosure Subject to Criminal Sanctions

EXHIBIT
SS-10

N379
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SS-10

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NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

SYSTEM II
NSC/ICS-400[illegible]

January 4, 1986 N 1249

~~TOP SECRET~~ [redacted]

**ACTION**

MEMORANDUM FOR JOHN M. POINDEXTER

FROM: OLIVER L. NORTH

SUBJECT: Covert Action Finding on Iran

Attached at Tab I is a memorandum from you to the President forwarding a Covert Action Finding (Tab A). This Finding is based on our discussions with Nir and my subsequent meeting with CIA General Counsel Stanley Sporkin.

At Sporkin's request, I talked to Bill Casey on secure re the Finding and the overall approach. He indicated that he thought the Finding was good and that this is probably the only approach that will work. He shares our goal of achieving a more moderate government in Iran through this process.

**RECOMMENDATION:**

That you sign the memorandum to the President at Tab I.

Approve _____ Disapprove _____

Attachments
Tab I - Poindexter Memo to the President
Tab A - Covert Action Finding

Partially Declassified/Released on 23 June 1987
under provisions of E.O. 12356
by B. Reger, National Security Council

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~~Declassify on:~~ OADR UNCLASSIFIED [redacted]

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TAB

I

TOP SECRET
UNCLASSIFIED

THE WHITE HOUSE
WASHINGTON

SYSTEM IV
NSC/ICS-400[illegible]

N 1251

~~TOP SECRET~~ [redacted]

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: JOHN M. POINDEXTER

SUBJECT: Covert Action Finding Regarding Iran

This week, Prime Minister Peres of Israel secretly dispatched his special advisor on terrorism with instructions to propose a plan by which the U.S. and Israel can act in concert to bring about a more moderate government in Iran. The Israelis are obviously very concerned that the course of the Iran-Iraq war and the potential for further radicalization in Iran pose a significant threat to the security of Israel.

The Israeli plan is premised on the assumption that moderate elements in Iran can come to power if these factions demonstrate their credibility in defending Iran against Iraq and in deterring Soviet intervention. To achieve the strategic goal of a more moderate Iranian government, the Israelis are prepared to unilaterally commence selling military materiel to Western-oriented Iranian factions. It is their belief that by so doing they can achieve a heretofore unobtainable penetration of the Iranian governing heirarchy. The Israelis are convinced that the Iranians are so desperate for military materiel, expertise and intelligence that the provision of these resources will result in favorable long-term changes in personnel and attitudes within the Iranian government. Further, once the exchange relationship has commenced, a dependency would be established on those who are providing the requisite resources, thus allowing the providor(s) to coercively influence near-term events.

As described by the Prime Minister's emissary, the only requirement the Israelis have is an assurance that they will be allowed to purchase U.S. replenishments for the stocks that they sell to Iran. Since the Israeli sales are technically a violation of our Arms Export Control Act embargo for Iran, a Presidential Covert Action Finding is required in order for us to allow the Israeli sales to proceed and for our subsequent replenishment sales.

~~TOP SECRET~~ [redacted]
Declassify on: OADR

TOP SECRET
UNCLASSIFIED

UNCLASSIFIED

N 1252

~~TOP SECRET~~

[redacted]

The Covert Action Finding attached at Tab A provides the lattitude for the transactions indicated above to proceed. If this Finding is signed, we would not interfere when the Israelis unilaterally commence sales and deliveries of TOW missiles during January, 1986. We would also be able to legally sell basic TOWs to Israel when they submit purchase orders for replenishing their own stocks. The Iranians have indicated an immediate requirement for 4,000 basic TOW weapons for use in the launchers they already hold. We would be expected to replace the Israeli stocks in less than 30 days. 4,000 missiles represent 1/3 of all available TOWs in Israel.

The Israelis and the Iranians with whom they are in contact agree that the continued holding of the five American hostages in Beirut will be immediately solved through commencement of this action. Prime Minister Peres had his emissary pointedly note that they well understand our position on making concessions to terrorists. They also point out, however, that terrorist groups, movements, and organizations are significantly easier to influence through governments than they are by direct approach. In that we have been unable exercise any suasion over Hizballah during the course of nearly two years of kidnappings, this approach through the government of Iran may well be our only way to achieve the release of the Americans held in Beirut. It must again be noted that since this dialogue with the Iranians began in September, Reverend Weir has been released and there have been no Shia terrorist attacks against American or Israeli persons, property, or interests.

The Israelis have asked for our urgent response to this proposal so that they can plan accordingly. They note that the current crisis in the Middle East provides a rationale for a significant purchase of TOWs and expedited delivery on our part. In order to provide an answer to Prime Minister Peres, the Finding at Tab A should be discussed privately with Secretaries Shultz, Weinberger, Director Casey and Attorney General Meese. If, based on their input, you decide to proceed, the Finding should be signed and held.

Recommendation:

OK     No

____ ____ That you agree to meet with Secretaries Shultz and Weinberger, Director Casey and Attorney General Meese on this matter as soon as possible.

Attachment
Tab A - [redacted]

[redacted] by:
[redacted] North

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UNCLASSIFIED

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N 1254

Finding Pursuant to Section 662 of
The Foreign Assistance Act of 1961
As Amended, Concerning Operations
Undertaken by the Central Intelligence
Agency in Foreign Countries, Other Than
Those Intended Solely for the Purpose
of Intelligence Collection

I hereby find that the following operation in a foreign country (including all support necessary to such operation) is important to the national security of the United States, and due to its extreme sensitivity and security risks, I determine it is essential to limit prior notice, and direct the Director of Central Intelligence to refrain from reporting this Finding to the Congress as provided in Section 501 of the National Security Act of 1947, as amended, until I otherwise direct.

| SCOPE | DESCRIPTION |
|---|---|
| Iran | Work with Iranian elements, groups and individuals, selected foreign liaison services and third countries, all of which are sympathetic to U.S. Government interests and which do not conduct or support terrorist actions directed against U.S. persons, property or interests, for the purpose of: (1) establishing a more moderate government in Iran, and (2) obtaining from them significant intelligence not otherwise obtainable, to determine the current Iranian Government's intentions with respect to its neighbors and with respect to terrorist acts. Provide funds, intelligence, counterintelligence, training, guidance and communications assistance to these elements, groups, individuals, liaison services and third countries in support of these activities. |
|  | The USG will act to facilitate efforts by third parties and third countries to establish contact with moderate elements within and outside the Government of Iran by providing these elements with arms, equipment and related materiel in order to enhance the credibility of these elements in their effort to achieve a more pro-U.S. government in Iran by demonstrating their ability to obtain requisite resources to defend their country against Iraq and intervention by the Soviet Union. This support will be discontinued if the U.S. Government learns that these elements have abandoned their goals of moderating their government and appropriated the materiel for purposes other than that provided by this Finding. |

[illegible]tially Declassified/Released on 23 [illegible] 1987
under provisions of E.O. 12356
by [illegible] Reger, National Security Council

The White House

[redacted]

UNCLASSIFIED

## EXHIBIT SS-11

TOP SECRET

THE WHITE HOUSE

WASHINGTON

UNCLASSIFIED

SYSTEM IV
NSC/ICS-40011

N 1323

[redacted]

[redacted]

**ACTION**

MEMORANDUM FOR THE PRESIDENT

FROM: JOHN M. POINDEXTER

SUBJECT: Covert Action Finding regarding Iran

This week, Prime Minister Peres of Israel secretly dispatched his special advisor on terrorism with instructions to propose a plan by which Israel, with limited assistance from the U.S., can act to bring about a more moderate government in Iran. The Israelis are very concerned that Iran's deteriorating position in the war with Iraq, the potential for further radicalization in Iran, and the possibility of enhanced Soviet influence in the Gulf all pose significant threats to the security of Israel. They believe it is essential that they act to at least preserve a balance of power in the region.

The Israeli plan is premised on the assumption that moderate elements in Iran can come to power if these factions demonstrate their credibility in defending Iran against Iraq and in deterring Soviet intervention. To achieve the strategic goal of a more moderate Iranian government, the Israelis are prepared to unilaterally commence selling military materiel to Western-oriented Iranian factions. It is their belief that by so doing they can achieve a heretofore unobtainable penetration of the Iranian governing heirarchy. The Israelis are convinced that the Iranians are so desperate for military materiel, expertise and intelligence that the provision of these resources will result in favorable long-term changes in personnel and attitudes within the Iranian government. Further, once the exchange relationship has commenced, a dependency would be established on those who are providing the requisite resources, thus allowing the providor(s) to coercively influence near-term events. Such an outcome is consistent with our policy objectives and would present significant advantages for U.S. national interests.

As described by the Prime Minister's emissary, the only requirement the Israelis have is an assurance that they will be allowed to purchase U.S. replenishments for the stocks that they sell to Iran. A Presidential Covert Action Finding is required in order for us to allow the Israeli transfers to proceed, for our subsequent replenishment sales to Israel, or for other assistance which may be deemed appropriate (e.g., intelligence)

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[redacted]

Declassify on: OADR

[redacted]

Partially Declassified/Released on 7 May 1987
under provisions of E.O. 12356
[illegible]

EXHIBIT
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UNCLASSIFIED [redacted] N 1324

[redacted] 2 [redacted]

The Covert Action Finding attached at Tab A provides the lattitude for the transactions indicated above to proceed. If this Finding is signed, we would not interfere when the Israelis unilaterally commence sales and deliveries of TOW missiles during January, 1986. The Finding also authorizes U.S. sales of basic TOWs to Israel when they submit purchase orders for replenishing their own stocks. The Iranians have indicated an immediate requirement for 4,000 basic TOW weapons for use in the launchers they already hold. We would be expected to replace the Israeli stocks in less than 30 days. 4,000 missiles represent 1/3 of all available TOWs in Israel.

The Israelis are sensitive to a strong U.S. desire to free our Beirut hostages and have insisted that the Iranians demonstrate both influence and good intent by an early release of the five Americans. Both sides have agreed that the hostages will be immediately released upon commencement of this action. Prime Minister Peres had his emissary pointedly note that they well understand our position on not making concessions to terrorists. They also point out, however, that terrorist groups, movements, and organizations are significantly easier to influence through governments than they are by direct approach. In that we have been unable to exercise any suasion over Hizballah during the course of nearly two years of kidnappings, this approach through the government of Iran may well be our only way to achieve the release of the Americans held in Beirut. It must again be noted that since this dialogue with the Iranians began in September, Reverend Weir has been released and there have been no Shia terrorist attacks against American or Israeli persons, property, or interests.

The Israelis have asked for our urgent response to this proposal so that they can plan accordingly. They note that conditions inside both Iran and Lebanon are highly violatile and that the current crisis in the Middle East provides a rationale for a significant Israeli purchase of TOWs and expedited delivery on our part. The Israelis are cognizant that this entire operation will be terminated if the Iranians abandon their goal of moderating their government or allow further acts of terrorism. In order to provide an answer to Prime Minister Peres, the Finding at Tab A should be discussed with Secretaries Shultz and Weinberger, Director Casey, and Attorney General Meese. If, based on their input, you decide to proceed, the Finding should be signed. Because of the extreme sensitivity of this project, it is recommended that you exercise your constitutional perogative to withhold notification of the Finding to the Congressional oversight committees until such time that you deem it to be appropriate.

UNCLASSIFIED

[redacted] [redacted]

[redacted]

Partially Declassified/Released on 7 May
under provisions of E.O. 12356
by [illegible]

[redacted]

[redacted]

UNCLASSIFIED N 1325

**Recommendation**

OK No

____ ____ That you agree to meet with Secretaries Shultz and Weinberger, Director Casey, and Attorney General Meese on this matter as soon as possible.

Prepared by:
Oliver L. North

Attachment
Tab A - Covert Action Finding

UNCLASSIFIED

Partially Declassified/Released on 7 May 1987
under provisions of E.O. 12356
by B. Reger, National Security Council

[redacted] [redacted] [redacted]

UNCLASSIFIED

N 1326

## Finding Pursuant to Section 662 of The Foreign Assistance Act of 1961 As Amended, Concerning Operations Undertaken by the Central Intelligence Agency in Foreign Countries, Other Than Those Intended Solely for the Purpose of Intelligence Collection

I hereby find that the following operation in a foreign country (including all support necessary to such operation) is important to the national security of the United States, and due to its extreme sensitivity and security risks, I determine it is essential to limit prior notice, and direct the Director of Central Intelligence to refrain from reporting this Finding to the Congress as provided in Section 501 of the National Security Act of 1947, as amended, until I otherwise direct.

| SCOPE | DESCRIPTION |
|---|---|
| Iran | Assist selected friendly foreign liaison services and third countries, which have established relationships with Iranian elements, groups, and individuals sympathetic to U.S. Government interests and which do not conduct or support terrorist actions directed against U.S. persons, property or interests, for the purpose of: (1) establishing a more moderate government in Iran, (2) obtaining from them significant intelligence not otherwise obtainable, to determine the current Iranian Government's intentions with respect to its neighbors and with respect to terrorist acts, and (3) furthering the release of the American hostages held in Beirut and preventing additional terrorist acts by these groups. Provide funds, intelligence, counter-intelligence, training, guidance and communications and other necessary assistance to these elements, groups, individuals, liaison services and third countries in support of these activities.<br>The USG will act to facilitate efforts by third parties and third countries to establish contact with moderate elements within and outside the Government of Iran by providing these elements with arms, equipment and related materiel in order to enhance the credibility of these elements in their effort to achieve a more pro-U.S. government in Iran by demonstrating their ability to obtain requisite resources to defend their country against Iraq and intervention by the Soviet Union. This support will be discontinued if the U.S. Government learns that these elements have abandoned their goals of moderating their government and appropriated the materiel for purposes other than that provided by this Finding. |

The White House
Washington, D.C.
Date: 6 January 1986

~~TOP SECRET~~

OGCR TS 0801-86
copy 1

[illegible] 7 May 1987 [redacted]

## EXHIBIT SS-12

NCLASSIFIED

N 9549

### Finding Pursuant to Section 662 of The Foreign Assistance Act of 1961 As Amended, Concerning Operations Undertaken by the Central Intelligence Agency in Foreign Countries, Other Than Those Intended Solely for the Purpose of Intelligence Collection

I hereby find that the following operation in a foreign country (including all support necessary to such operation) is important to the national security of the United States, and due to its extreme sensitivity and security risks, I determine it is essential to limit prior notice, and direct the Director of Central Intelligence to refrain from reporting this Finding to the Congress as provided in Section 501 of the National Security Act of 1947, as amended, until I otherwise direct.

| SCOPE | DESCRIPTION |
|---|---|
| Iran | Assist selected friendly foreign liaison services and third countries, which have established relationships with Iranian elements, groups, and individuals sympathetic to U.S. Government interests and which do not conduct or support terrorist actions directed against U.S. persons, property or interests, for the purpose of: (1) establishing a more moderate government in Iran, (2) obtaining from them significant intelligence not otherwise obtainable, to determine the current Iranian Government's intentions with respect to its neighbors and with respect to terrorist acts, and (3) furthering the release of the American hostages held in Beirut and preventing additional terrorist acts by these groups. Provide funds, intelligence, counter-intelligence, training, guidance and communications and other necessary assistance to these elements, groups, individuals, liaison services and third countries in support of these activities.<br>The USG will act to facilitate efforts by third parties and third countries to establish contact with moderate elements within and outside the Government of Iran by providing these elements with arms, equipment and related materiel in order to enhance the credibility of these elements in their effort to achieve a more pro-U.S. government in Iran by demonstrating their ability to obtain requisite resources to defend their country against Iraq and intervention by the Soviet Union. This support will be discontinued if the U.S. Government learns that these elements have abandoned their goals of moderating their government and appropriated the materiel for purposes other than that provided by this Finding. |

The White House
Washington, D.C.
Date: 6 January 1986

TOP SECRET

OGCR TS 0801-86
copy 1

[redacted]

Ronald Reagan

Declassified/Released on 19 May 1987
under provisions of E.O. 12356
By B. Reger, National Security Council

EXHIBIT
SS-12

1112

SS-12 149

## EXHIBIT SS-13

UNCLASS[redacted]

07 JAN 1986

DRAFT
Destroy when complete
WORKING PAPER

MEMORANDUM FOR: General Counsel

FROM: [redacted]
Associate General Counsel

SUBJECT: Proposed Iran Finding (TS[redacted]

EXHIBIT
SS-13

1. I believe there is sufficient legal authority to support a covert action Finding that would result in the transfer of military equipment to Iran for the purpose of (a) moderating Iran's hostile attitude toward the U.S., (b) preempting possible Soviet influence in the region, and (c) obtaining a hostage release. Such authority would be based upon a Presidential Finding under Hughes-Ryan that the operation is important to the national security, and upon the extraordinary authorities of the National Security Act. The Agency would purchase the equipment from DoD under the Economy Act and transfer the equipment abroad.

2. Attached are several memos prepared in the past on related issues. At Tab A are opinions of the Attorney General, the State Department, and this office stating there is authority for CIA to transfer equipment abroad outside the foreign assistance mechanisms. At Tab B is a 1983 memo that indicates there are no general prohibitions that would preclude CIA's sending equipment to Iran. I have confirmed that this is the case today. Further, I don't believe the Trading with the Enemy Act precludes the transfer, for two reasons. First, the Act itself makes trade unlawful unless conducted "with the license of the President." 50 U.S.C. App. § 3. Second, the Act simply was never intended to preclude acts of the Executive. Tab C contains two opinions on the inapplicability of the Neutrality Act to conduct sanctioned by the President that are relevant on this point.

3. One problem could arise, however, if the equipment to be transferred constitutes articles the U.S. has provided to a second country through the Foreign Assistance/Arms Export Control Acts. The memo at Tab D indicates a country may use material it has received through such U.S. foreign aid only for self defense and may retransfer it only in certain limited circumstances that require U.S. consent, notice to Congress, and the eligibility of the third country recipient for U.S. aid. Terrorist activities, among other things, can disqualify a potential recipient.

1138

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by B. Reger, National Security Council

Executive Registry 7420

SS-13 150

UNCLASSIFIED [redacted]

4. Finally, as you know, Congress recently passed the Intelligence Authorization Act to require reports of weapons transfers valued in excess of 1 million dollars as significant anticipated intelligence activities "for the purpose of" and, therefore, in accordance with, section 501 of the National Security Act. A copy of the relevant language is at Tab E.

[redacted]

Attachments

UNCLASSIFIED [redacted]

A

Executive Registry 7421

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# EXHIBIT SS-14

UNCLASSIFIED

13 Jan 1986

The Israelis are moving ahead on their Tow for Hostage deal with the Iranians. You will recall that in Sporkin's legal analysis there were two options: one for DoD to do it directly with the Israelis, the other to do it through CIA. Sporkin feels that the most defensible way to do it from a legal standpoint is through CIA. We prefer keeping CIA out of the execution even though a Presidential Finding would authorize the way Defense would have to handle the transactions.

Under this option, the idea was that the Israelis would buy the improved version of the Tow and ship to the Iranians the basic Tows they now have. The Israelis would then replace those basic Tows by buying the improved version. Unfortunately, there is not enough money available to do this. The Iranians have placed $22 million in an account in Switzerland. This is enough for the basic Tows, but for the Israelis to buy the improved version it would cost about $44 million.

Therefore, they want to use the second option under which CIA would buy 4,000 basic Tows from DoD for $21 million. As far as Defense is concerned these purchases would be for general CIA uses for assistance in [redacted] etc., and other purposes. The money for the Iranian account would be transferred to the Israelis. The Israelis would transfer that money to a CIA account to pay for this purchase of the Tows from DoD, the shippers would move the Tows to the Israelis who would then move them on to the Iranians. The Israelis would keep their basic Tows and the problem of upgrading them to the new Tows would be handled in the normal DoD-Israeli relationship.

I am told that time is of the essence in getting this done for two reasons: first, the situation in Lebanon is deteriorating so that any delay reduces the prospects of getting the hostages out of Lebanon. [redacted]

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by B. Reger, National Security Council

EXHIBIT
SS-14

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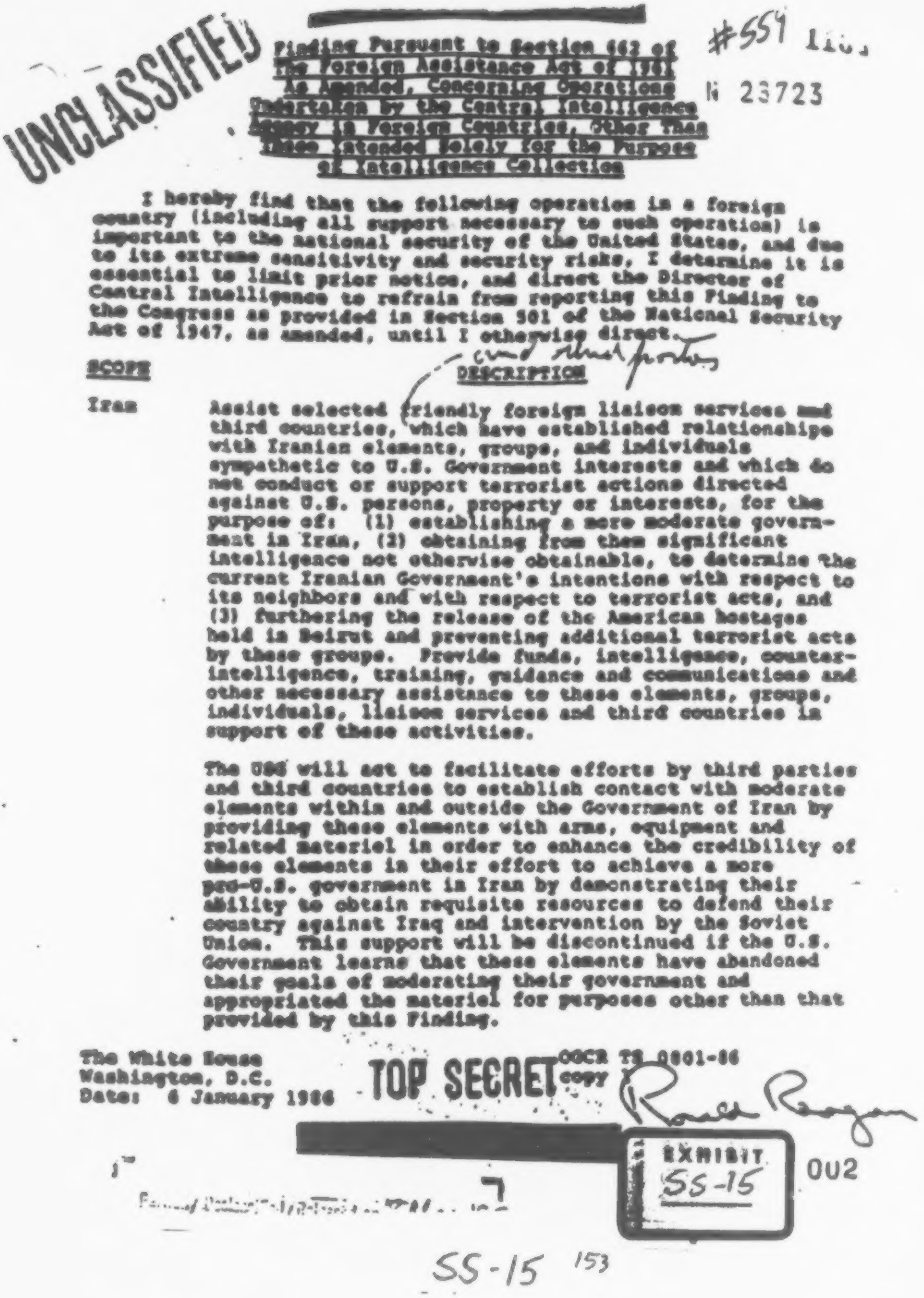
SS-14 152

## EXHIBIT SS-15



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N 23723

### Finding Pursuant to Section 662 of The Foreign Assistance Act of 1961 As Amended, Concerning Operations Undertaken by the Central Intelligence Agency in Foreign Countries, Other Than Those Intended Solely for the Purpose of Intelligence Collection

I hereby find that the following operation in a foreign country (including all support necessary to such operation) is important to the national security of the United States, and due to its extreme sensitivity and security risks, I determine it is essential to limit prior notice, and direct the Director of Central Intelligence to refrain from reporting this Finding to the Congress as provided in Section 501 of the National Security Act of 1947, as amended, until I otherwise direct.

and third parties

| SCOPE | DESCRIPTION |
|---|---|
| Iran | Assist selected friendly foreign liaison services and third countries, which have established relationships with Iranian elements, groups, and individuals sympathetic to U.S. Government interests and which do not conduct or support terrorist actions directed against U.S. persons, property or interests, for the purpose of: (1) establishing a more moderate government in Iran, (2) obtaining from them significant intelligence not otherwise obtainable, to determine the current Iranian Government's intentions with respect to its neighbors and with respect to terrorist acts, and (3) furthering the release of the American hostages held in Beirut and preventing additional terrorist acts by these groups. Provide funds, intelligence, counterintelligence, training, guidance and communications and other necessary assistance to these elements, groups, individuals, liaison services and third countries in support of these activities.<br>The USG will act to facilitate efforts by third parties and third countries to establish contact with moderate elements within and outside the Government of Iran by providing these elements with arms, equipment and related materiel in order to enhance the credibility of these elements in their effort to achieve a more pro-U.S. government in Iran by demonstrating their ability to obtain requisite resources to defend their country against Iraq and intervention by the Soviet Union. This support will be discontinued if the U.S. Government learns that these elements have abandoned their goals of moderating their government and appropriated the materiel for purposes other than that provided by this Finding. |

The White House
Washington, D.C.
Date: 6 January 1986

TOP SECRET

OGCR TS 0001-86
copy 1

Ronald Reagan

[redacted]

EXHIBIT
SS-15

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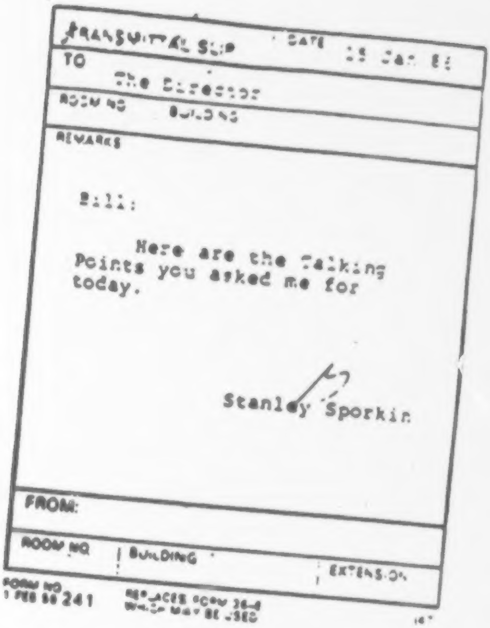
SS-15 153

## EXHIBIT SS-16

UNCLASSIFIED



TRANSMITTAL SLIP DATE 15 Jan 86

TO The Director

ROOM NO. BUILDING

REMARKS

Bill:

Here are the Talking Points you asked me for today.

Stanley Sporkin

FROM:

ROOM NO. | BUILDING | EXTENSION

FORM NO. 1 FEB 56 241 REPLACES FORM 36-8 WHICH MAY BE USED

1140

Partially Declassified/Released on 22 June 1987
under provisions of E.O. 12356
by S. Reger, National Security Council

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EXHIBIT
SS-16

CIIN #109

SS-16

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| [illegible] | [illegible] | [illegible] | [illegible] |
| [illegible] | [illegible] | [illegible] | [illegible] |
| [illegible] | None | [illegible] | [illegible] |

T.F.

| DIRECTORATE | OFFICE BRANCH | AGENCY | CONTROL NUMBER | COPY NO. |
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| DCI | OGC/ICA |  |  |  |

ATTENTION: This form will be placed on top of and attached to each Top Secret document received by the Central Intelligence Agency or classified Top Secret within the CIA and will remain attached to the document until such time as it is downgraded, destroyed, or transmitted outside of CIA. Access to Top Secret matter is limited to Top Secret Control personnel and those individuals whose official duties relate to the matter. Top Secret Control Officers who receive and/or release the attached Top Secret material will sign this form and indicate period of custody in the left-hand columns provided. Each individual who sees the Top Secret document will sign and indicate the date of handling in the right-hand columns.

| REFERRED TO | RECEIVED |  |  | RELEASED |  | SEEN BY |  |  |
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|  | rec'd 16 Jan. |  |  |  |  |  |  |  |
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When this form is detached from Top Secret material it shall be completed in the appropriate spaces below and forwarded to the Agency Top Secret Control Office

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| BY | WITNESSED BY (Signature) | BY (Signature) |
| & AREA OFFICE | DIRECTORATE & AREA OFFICE | DIRECTORATE & AREA OFFICE |
| DATE | DATE | DATE |

UNCLASSIFIED

FORM 26 OBSOLETE PREVIOUS EDITIONS

UNCLASSIFIED [redacted]

OGC-86-50167
15 January 1986

TALKING POINTS

-- Whether existing statutes and regulations control the manner and method in which the DoD can sell weapons to third parties is an issue that DoD must determine. From a CIA standpoint, since there is a presidential finding, CIA is authorized to assist in the obtaining of the materiel in question. If CIA actually took control of materiel through an Economy Act transfer by DoD, this would seem to be the preferred way to handle the proposal from a legal standpoint. This would provide the maximum use of CIA authorities.

-- If CIA merely acts as an accommodation party and, in effect, requests DoD to deal with a particular agent, this might also be proper but it would be up to DoD to tell us whether their authorities would allow such a transaction outside of the Economy Act. We have found no such precedent.

-- The key issue in this entire matter revolves around whether or not there will be reports made to Congress. Each of the Acts involved--the Foreign Assistance Act, the Arms Export Control Act and indeed the National Security Act as amended--have certain reporting provisions in them. While the National Security Act provides for a certain limited reporting procedure, it is my view that there may be other ways of making a suitable report by exercise of the President's constitutional prerogatives.

-- One such possibility would be not to report the activity until after it has been successfully concluded and to brief only the chairman and ranking minority members of

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Executive Registry 7422

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the two Oversight Committees. This would maximize the security of the mission and reduce the possibility of its premature disclosure.1/

-- In this way, you will have limited the number of persons having access to the information and also be assured that there will be no disclosure of the information until after the activity has been successfully completed. I repeat again that it is the various reporting requirements that seem to be dictating how we can proceed. If there can be an agreement that a report will be made, it minimizes the risk inherent in any such undertaking, and the way that the project is carried out can then be put on a less fractious basis.

-- Finally, whatever plan is adopted, such action should be taken only after it has been discussed with the Attorney General, the Secretary of Defense, the Secretary of State, and the Assistant to the President for National Security Affairs.

---

1/ As you know, the Act itself provides for a report to be limited to the chairman and ranking minority members of the intelligence committees, the Speaker and minority leader of the House of Representatives, and the majority and minority leaders of the Senate.

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EXHIBIT SS-17

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CONTROL NO. SIIC 104

APPENDED DOCUMENT CONTAINS
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by B. Reger, National Security Council

EXHIBIT
SS-17

1139

Warning Notice
Sensitive Intelligence Sources and Methods Involved

NATIONAL SECURITY INFORMATION
Unauthorized Disclosure Subject to Criminal Sanctions

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Classified by DOD Directive S-5200.17(M-2)
Exempt from G.D.S. of E.O. 11652
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SS-17

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CONTROL AND COVER SHEET FOR TOP SECRET DOCUMENT COLLATERAL

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| NO. PAGES<br>2 | NO. OF ATTACHMENTS (CIA T.S. # of Attachment)<br>None | BRANCH BADGE & OR LOCATION<br>OGC/ICA, 3S11 Stafford | LOGGED BY<br>cr |

SUBJECT

MFR - T. C. f. GC R. A. t. P. h. t. T. P. P. t. P. F.

| CIA SOURCE INFORMATION<br>ORIGINATOR | | EXTERNAL SOURCE INFORMATION<br>ORIGINATOR | | |
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FORM -83 26 OBSOLETE PREVIOUS EDITIONS

CIIN #104

TOP SECRET

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UNCLASSIFIED ~~TOP SECRET~~ [redacted]

15 January 1986
1440 Hours

MEMORANDUM FOR THE RECORD

FROM: [redacted]
Associate General Counsel

SUBJECT: Telephone Call from General Counsel Regarding Authority to Provide Weapons to Third Parties Pursuant to Presidential Findings

1. At approximately 1420 hours today I received a secure line telephone call from the General Counsel. He wanted to discuss whether I saw any problems or reporting requirements with a proposal to have DoD provide weapons to a CIA "agent" who would pay for the weapons with money supplied by a friendly third country. The agent would then supply the weapons to the intended recipient country. The agent would have no connection with CIA other than to act as a "middle man" with our authority.

2. I told the General Counsel that I would feel more comfortable if CIA were directly involved in the activity and that it would be essential that we act in furtherance of a traditional covert action objective. I said that I could foresee problems if this activity were merely intended to rotate a specific country's stock of weapons. (We had been considering since 10 January a proposal to provide missiles to Israel that would, in part, be to secure the return of U.S. citizens held by or under the control of Iran. As originally explained, Israel would keep the newer missiles supplied by us and give Iran older missiles currently held by Israel. According to the General Counsel, this activity was authorized by a signed Presidential Finding which he worked out with Oliver North on 10-11 January 1986.)

3. Despite repeated urgings to concur in variations that would have DoD provide the weapons without other than token CIA involvement, I did not do so. (At one point, Mr. North came on the line to "clarify" the hypothetical facts for me and then put Stan Sporkin back on the line.) I had previously urged both the General Counsel and Deputy General Counsel to obtain a copy of the Presidential Finding from Mr. North so we could determine what was intended to be authorized. These efforts proved unsuccessful.

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4. I repeatedly told the General Counsel that I could not make the legal determination he was seeking without the facts. Before I changed offices (I was in the middle of a meeting when the General Counsel called) George Jameson overheard my remarks to this effect.

[redacted]

11 March 1986

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## EXHIBIT SS-18

[redacted]

N 9402

### Finding Pursuant to Section 662 of The Foreign Assistance Act of 1961 As Amended, Concerning Operations Undertaken by the Central Intelligence Agency in Foreign Countries, Other Than Those Intended Solely for the Purpose of Intelligence Collection

I hereby find that the following operation in a foreign country (including all support necessary to such operation) is important to the national security of the United States, and due to its extreme sensitivity and security risks, I determine it is essential to limit prior notice, and direct the Director of Central Intelligence to refrain from reporting this Finding to the Congress as provided in Section 501 of the National Security Act of 1947, as amended, until I otherwise direct.

| SCOPE | DESCRIPTION |
|---|---|
| Iran | Assist selected friendly foreign liaison services, third countries and third parties which have established relationships with Iranian elements, groups, and individuals sympathetic to U.S. Government interests and which do not conduct or support terrorist actions directed against U.S. persons, property or interests, for the purpose of: (1) establishing a more moderate government in Iran, (2) obtaining from them significant intelligence not otherwise obtainable, to determine the current Iranian Government's intentions with respect to its neighbors and with respect to terrorist acts, and (3) furthering the release of the American hostages held in Beirut and preventing additional terrorist acts by these groups. Provide funds, intelligence, counter-intelligence, training, guidance and communications and other necessary assistance to these elements, groups, individuals, liaison services and third countries in support of these activities. |

The USG will act to facilitate efforts by third parties and third countries to establish contact with moderate elements within and outside the Government of Iran by providing these elements with arms, equipment and related materiel in order to enhance the credibility of these elements in their effort to achieve a more pro-U.S. government in Iran by demonstrating their ability to obtain requisite resources to defend their country against Iraq and intervention by the Soviet Union. This support will be discontinued if the U.S. Government learns that these elements have abandoned their goals of moderating their government and appropriated the materiel for purposes other than that provided by this Finding.

The White House
Washington, D.C.
Date January 17, 1986

Ronald Reagan

OGCR TS 0801-86
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[redacted]

EXHIBIT
SS-18

SS-18

## EXHIBIT SS-19

THE WHITE HOUSE
WASHINGTON

#49

N 10046

SS-19

January 17, 1986

~~TOP SECRET~~

**ACTION**

MEMORANDUM FOR THE PRESIDENT

FROM: JOHN M. POINDEXTER

SUBJECT: Covert Action Finding Regarding Iran

Prime Minister Peres of Israel secretly dispatched his special advisor on terrorism with instructions to propose a plan by which Israel, with limited assistance from the U.S., can create conditions to help bring about a more moderate government in Iran. The Israelis are very concerned that Iran's deteriorating position in the war with Iraq, the potential for further radicalization in Iran, and the possibility of enhanced Soviet influence in the Gulf all pose significant threats to the security of Israel. They believe it is essential that they act to at least preserve a balance of power in the region.

The Israeli plan is premised on the assumption that moderate elements in Iran can come to power if these factions demonstrate their credibility in defending Iran against Iraq and in deterring Soviet intervention. To achieve the strategic goal of a more moderate Iranian government, the Israelis are prepared to unilaterally commence selling military materiel to Western-oriented Iranian factions. It is their belief that by so doing they can achieve a heretofore unobtainable penetration of the Iranian governing hierarchy. The Israelis are convinced that the Iranians are so desperate for military materiel, expertise and intelligence that the provision of these resources will result in favorable long-term changes in personnel and attitudes within the Iranian government. Further, once the exchange relationship has commenced, a dependency would be established on those who are providing the requisite resources, thus allowing the provider(s) to coercively influence near-term events. Such an outcome is consistent with our policy objectives and would present significant advantages for U.S. national interests. As described by the Prime Minister's emissary, the only requirement the Israelis have is an assurance that they will be allowed to purchase U.S. replenishments for the stocks that they sell to Iran. We have researched the legal problems of Israel's selling U.S. manufactured arms to Iran. Because of the requirement in U.S. law for recipients of U.S. arms to notify the U.S. government of transfers to third countries, I do not recommend that you agree with the specific details of the Israeli plan. However, there is another possibility. Some time ago Attorney

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(full text released) 4 May 87

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General William French Smith determined that under an appropriate finding you could authorize the CIA to sell arms to countries outside of the provisions of the laws and reporting requirements for foreign military sales. The objectives of the Israeli plan could be met if the CIA, using an authorized agent as necessary, purchased arms from the Department of Defense under the Economy Act and then transferred them to Iran directly after receiving appropriate payment from Iran.

The Covert Action Finding attached at Tab A provides the latitude for the transactions indicated above to proceed. The Iranians have indicated an immediate requirement for 4,000 basic TOW weapons for use in the launchers they already hold.

The Israeli's are also sensitive to a strong U.S. desire to free our Beirut hostages and have insisted that the Iranians demonstrate both influence and good intent by an early release of the five Americans. Both sides have agreed that the hostages will be immediately released upon commencement of this action. Prime Minister Peres had his emissary pointedly note that they well understand our position on not making concessions to terrorists. They also point out, however, that terrorist groups, movements, and organizations are significantly easier to influence through governments than they are by direct approach. In that we have been unable to exercise any suasion over Hizballah during the course of nearly two years of kidnappings, this approach through the government of Iran may well be our only way to achieve the release of the Americans held in Beirut. It must again be noted that since this dialogue with the Iranians began in September, Reverend Weir has been released and there have been no Shia terrorist attacks against American or Israeli persons, property, or interests.

Therefore it is proposed that Israel make the necessary arrangements for the sale of 4000 TOW weapons to Iran. Sufficient funds to cover the sale would be transferred to an agent of the CIA. The CIA would then purchase the weapons from the Department of Defense and deliver the weapons to Iran through the agent. If all of the hostages are not released after the first shipment of 1000 weapons, further transfers would cease.

On the other hand, since hostage release is in some respects a byproduct of a larger effort to develop ties to potentially moderate forces in Iran, you may wish to redirect such transfers to other groups within the government at a later time.

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The Israelis have asked for our urgent response to this proposal so that they can plan accordingly. They note that conditions inside both Iran and Lebanon are highly volatile. The Israelis are cognizant that this entire operation will be terminated if the Iranians abandon their goal of moderating their government or allow further acts of terrorism. You have discussed the general outlines of the Israeli plan with Secretaries Shultz and Weinberger, Attorney General Meese and Director Casey. The Secretaries do not recommend you proceed with this plan. Attorney General Meese and Director Casey believe the short-term and long-term objectives of the plan warrant the policy risks involved and recommend you approve the attached Finding. Because of the extreme sensitivity of this project, it is recommended that you exercise your statutory prerogative to withhold notification of the Finding to the Congressional oversight committees until such time that you deem it to be appropriate.

Recommendation

OK NO

RB per JP ___ That you sign the attached Finding.

Prepared by:
Oliver L. North

Attachment
Tab A - Covert Action Finding

1000 17 Jan 86

President was briefed verbally from this paper. VP, Don Regan and Don Fortier were present.

JP

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#50

## Finding Pursuant to Section 662 of The Foreign Assistance Act of 1961 As Amended, Concerning Operations Undertaken by the Central Intelligence Agency in Foreign Countries, Other Than Those Intended Solely for the Purpose of Intelligence Collection

I hereby find that the following operation in a foreign country (including all support necessary to such operation) is important to the national security of the United States, and due to its extreme sensitivity and security risks, I determine it is essential to limit prior notice, and direct the Director of Central Intelligence to refrain from reporting this Finding to the Congress as provided in Section 501 of the National Security Act of 1947, as amended, until I otherwise direct.

| SCOPE | DESCRIPTION |
|---|---|
| Iran | Assist selected friendly foreign liaison services, third countries and third parties which have established relationships with Iranian elements, groups, and individuals sympathetic to U.S. Government interests and which do not conduct or support terrorist actions directed against U.S. persons, property or interests, for the purpose of: (1) establishing a more moderate government in Iran, (2) obtaining from them significant intelligence not otherwise obtainable, to determine the current Iranian Government's intentions with respect to its neighbors and with respect to terrorist acts, and (3) furthering the release of the American hostages held in Beirut and preventing additional terrorist acts by these groups. Provide funds, intelligence, counter-intelligence, training, guidance and communications and other necessary assistance to these elements, groups, individuals, liaison services and third countries in support of these activities.<br>The USG will act to facilitate efforts by third parties and third countries to establish contact with moderate elements within and outside the Government of Iran by providing these elements with arms, equipment and related materiel in order to enhance the credibility of these elements in their effort to achieve a more pro-U.S. government in Iran by demonstrating their ability to obtain requisite resources to defend their country against Iraq and intervention by the Soviet Union. This support will be discontinued if the U.S. Government learns that these elements have abandoned their goals of moderating their government and appropriated the materiel for purposes other than that provided by this Finding. |

The White House
Washington, D.C.
Date January 17, 1986

OGCR TS 0801-86
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T O P S E C R E T

4 May 87

EXHIBIT SS–20

UNCLASSIFIED

6 January 1986

EXHIBIT
SS-20

MEMORANDUM FOR: [redacted]
Associate General Counsel

FROM: [redacted]
Office of General Counsel

SUBJECT: Third Country Transfer of Equipment Provided Under the Foreign Assistance or Arms Export Control Acts

1. A question has arisen under what circumstances a recipient of U.S. foreign military assistance can transfer military equipment provided through the foreign assistance mechanism to a third country. Two statutory provisions address this question: one in the context of grant assistance under the Foreign Assistance Act (FAA) and the second where the equipment was purchased by a foreign country under the Arms Export Control Act (AECA). Both Acts require Presidential consent to a third country transfer and certification to Congress where certain dollar amounts and specific types of equipment are involved.

FAA § 505, 22 U.S.C. § 2314(a) and (e)

2. In order to be eligible for military assistance on a grant basis, the recipient foreign country must agree that it will not transfer the equipment to another country without the consent of the President of the U.S. and that it will return the articles to the U.S. when they are no longer needed, unless the President agrees to other disposition. 22 U.S.C. § 2314(a)(1) and (4).

3. In considering a request for approval of any transfer by gift, sale or otherwise of any implement of war to a third country, the President shall not give his consent to the transfer unless the United States itself would transfer the defense article under consideration to that country. The President shall not give his consent to the transfer of any significant defense articles on the U.S. Munitions List unless the foreign country requesting consent agrees to demilitarize

1137

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under provisions of E.O. 12356
by B. Reger, National Security Council

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such defense articles prior to transfer, or the proposed recipient foreign country provides a commitment in writing to the United States that it will not transfer such defense articles, if not demilitarized, to any other foreign country or person without first obtaining the consent of the President. (Consent authority was delegated to the Secretary of State in Executive Order 12163, § 1-201(a)(3),(4), and (5), September 29, 1979, 44 Fed. Reg. 56673.)

AECA § 3, 22 U.S.C. § 2753.

4. No defense article or defense service shall be sold or leased by the U.S. to any country or international organization unless the country or international organization shall have agreed not to transfer title to, or possession of, any defense article, unless the consent of the President is first obtained. The President shall not give his consent under this provision of AECA unless the U.S. itself would transfer the articles to that country. In addition, the President shall not give his consent to the transfer of significant defense articles on the U.S. Munitions List unless the transferring country agrees to demilitarize the equipment or the recipient nation agrees in writing that it will not further transfer the articles.

5. Under both the AECA and the FAA provision outlined above, the President must report a third country transfer to Congress after certain threshold requirements are reached. The President may not consent to a transfer of major defense equipment valued (in terms of its original acquisition cost) at more than $14 million or any defense article valued at more than $50 million (original acquisition cost) to a third country unless he submits a certification to the Speaker of the House and Senate Committee on Foreign Relations for congressional consent to the proposed transfer.

6. The written certification must contain (a) the name of the country proposing to make the transfer, (b) a description of the defense article or service proposed to be transferred, including its original acquisition cost, (c) the name of the proposed recipient, (d) the reasons for the proposed transfer, and (e) the date on which the transfer is proposed to be made. Such certification will be unclassified except that information regarding the dollar value and number of articles may be classified if public disclosure would be clearly detrimental to security of the United States. Consent to the transfer shall not become effective until 30 calendar days after the date of the submittal of the certification, and then only if Congress does not adopt a concurrent resolution disapproving the

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proposed transfer. Note: legislative veto declared unconstitutional by Supreme Court in INS v. Chadha, 462 U.S. 919 (1983)).

7. Functions of the President under this section, with certain exceptions inapplicable here, were delegated to the Secretary of State by E.O. No. 11958, January 18, 1977, 42 Fed. Reg. 4311. With respect to consent to a third country transfer, the Secretary of State is authorized to find, in consultation with other federal departments and agencies, whether the proposed transfer will strengthen the security of the U.S. and promote world peace.

Other Considerations

8. Both the FAA and AECA require that consent be given to a third country transfer of defense articles only if the U.S. itself would transfer the articles to that country. This caveat triggers a panoply of general policy considerations and specific prohibitions relating to foreign military assistance including:

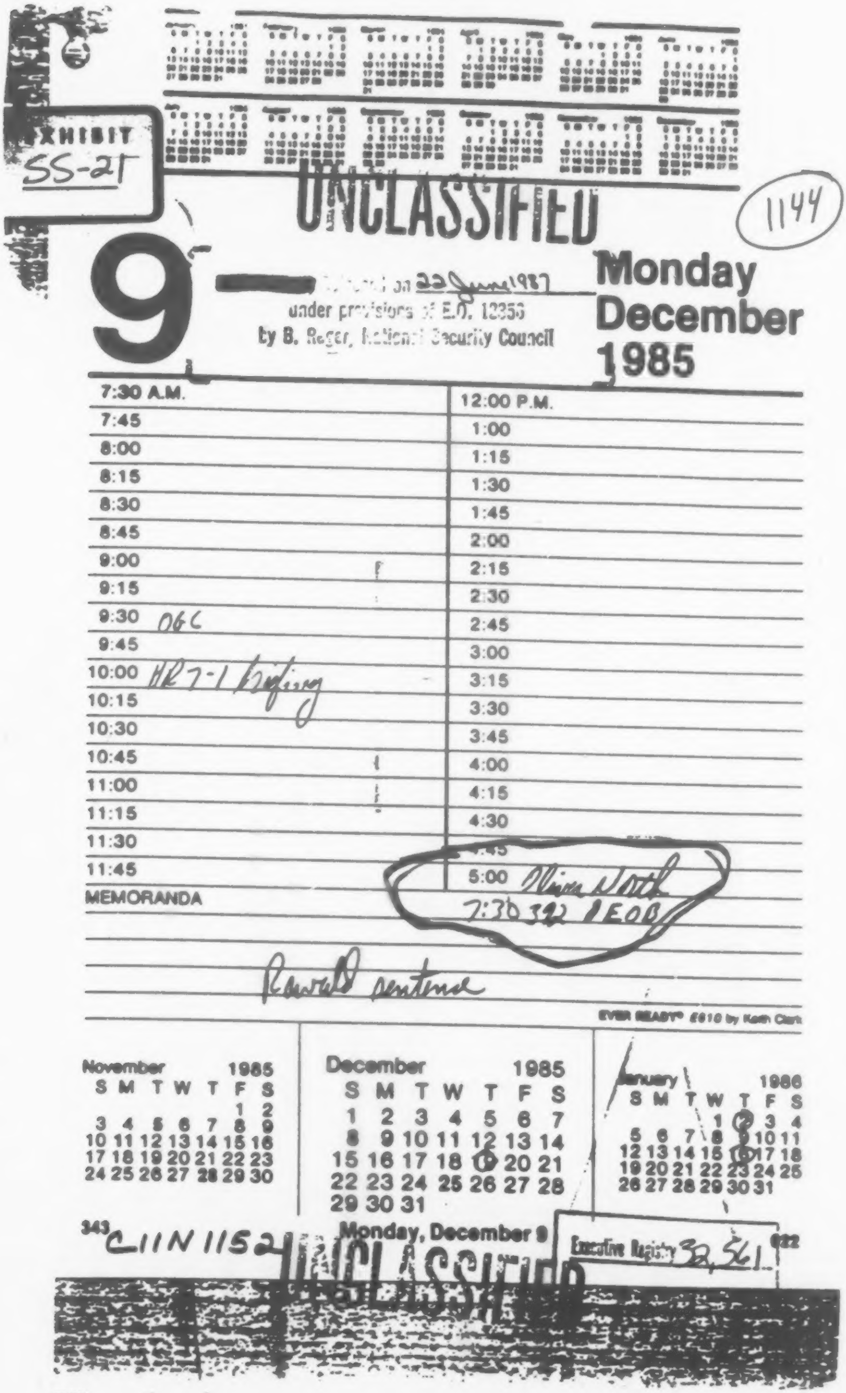
- no assistance to Communist countries unless the President finds and reports promptly to Congress that (1) such assistance is vital to U.S. security; (2) the recipient country is not controlled by the international Communist conspiracy; and (3) such assistance will promote the independence of the recipient country from Communism (22 U.S.C. § 2370(f));

- no assistance to countries engaging in or preparing for aggressive military efforts directed against the U.S. or FMS recipient nations, unless the President determines that military efforts or preparations have ceased and he reports to Congress that he has received satisfactory assurances they will not be renewed. (No other FAA waiver provisions may be used.) (22 U.S.C. § 2370(i);

- no assistance to countries that grant sanctuary to international terrorists; unless the President determines the national security justifies such assistance and reports his finding to the Speaker of the House and the Senate Committee on Foriegn Relations (22 U.S.C. §§ 2371, (FAA), 2753(f)(AECA); and

- no assistance to countries who have severed diplomatic relations with the U.S., or with whom the U.S. has severed diplomatic relations, unless diplomatic relations are resumed and agreements for assistance are entered into after the resumption of diplomatic relations (22 U.S.C. § 2370(t)).

## EXHIBIT SS-21



EXHIBIT
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9 [redacted] on 22 June 1987
under provisions of E.O. 12356
by B. Reger, National Security Council

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Monday, December 9

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## EXHIBIT C-1

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EXHIBIT C-1

Partially Declassified/Released on 23 June 1987
under provisions of E.O. 12356
by B. Reger, National Security Council

1287

TEXT OF TELEGRAM 85 [redacted]

ADP423
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PAGE 01 [redacted] 22 [redacted]
ACTION SS-25

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TO SECSTATE WASHDC 9779

S E C R E T [redacted]

EXDIS

E.O. 12356: DECL: OADR
[redacted]
SUBJECT: ALLEGED ISRAELI TRANSSHIPMENT OF ARMS
- TO IRAN

1. SECRET - ENTIRE TEXT.

2. DURING DISCUSSION WITH A/DCM NOVEMBER 21 MFA [redacted] RAISED ISSUE OF ARMS SALES TO IRAN. [redacted] SAID THAT MFA [redacted] [redacted] RECEIVED A CALL NOVEMBER 20 FROM A MANAGER OF THE [redacted] FIRM [redacted] THE [redacted] MANAGER STATED THAT HE HOPED FOREIGN MINISTRY AUTHORIZATION WOULD BE GIVEN FOR TWO AIRCRAFT TO TRANSIT [redacted] THEY WOULD BE CARRYING ARMS PROVIDED BY ISRAEL FOR IRAN. [redacted] SAID THAT THE [redacted] OFFICIAL (APPARENTLY ACTING AS BROKER FOR THE ARMS DEAL) REFERRED TO AN "AMERICAN GENERAL" INVOLVED IN THE UNDERTAKING AND TO CLOSE RELATIONS OF [redacted] WITH THE U.S. [redacted] WONDERED IF THE EMBASSY HAD INFORMATION ABOUT THIS STRANGE CASE PERHAPS INVOLVING A RETIRED U.S. GENERAL.

3. A/DCM REPLIED THAT THE POTENTIAL SHIPMENT WAS CERTAINLY NEWS. NOR WERE WE AWARE OF ANY AMERICAN
SECRET
SECRET

PAGE 02 [redacted] 22 [redacted]

CONNECTION. A/DCM REITERATED STRONG U.S. OPPOSITION TO ARMS SALES TO IRAN AND RECALLED THE MANY DISCUSSIONS WITH [redacted] INCLUDING AMBASSADOR [redacted] LENGTHY BRIEFING OF FORMIN [redacted] LAST SPRING. [redacted] STATED THAT POSITION HAD BEEN CLEAR AS WELL - LIMITED SALES OF AMMUNITION FROM [redacted] WOULD CONTINUE, BUT [redacted] WOULD DENY OTHER ITEMS OR TR/ SHIPMENT OF WAR MATERIEL FOR IRAN. REGARDING

PAGE NO.

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TEXT OF TELEGRAM [redacted]

THE CASE IN QUESTION [redacted] SAID THAT NO OFFICIAL REQUEST FOR AUTHORIZATION HAD BEEN MADE TO THE MFA. IF THERE IS A REQUEST IT WILL BE REJECTED. ALTHOUGH [redacted] ACKNOWLEDGED THAT SOME TRANSSHIPMENTS MAY HAVE TAKEN PLACE WITHOUT FOREIGN MINISTRY KNOWLEDGE, ITS AUTHORIZATION IS NECESSARY FOR LEGAL TRANSSHIPMENT. IN THIS PARTICULAR CASE IT WILL NOT BE GIVEN, AND IN [redacted] VIEW, THE PROPOSED TRANSSHIPMENT WILL NOT OCCUR.

[redacted]

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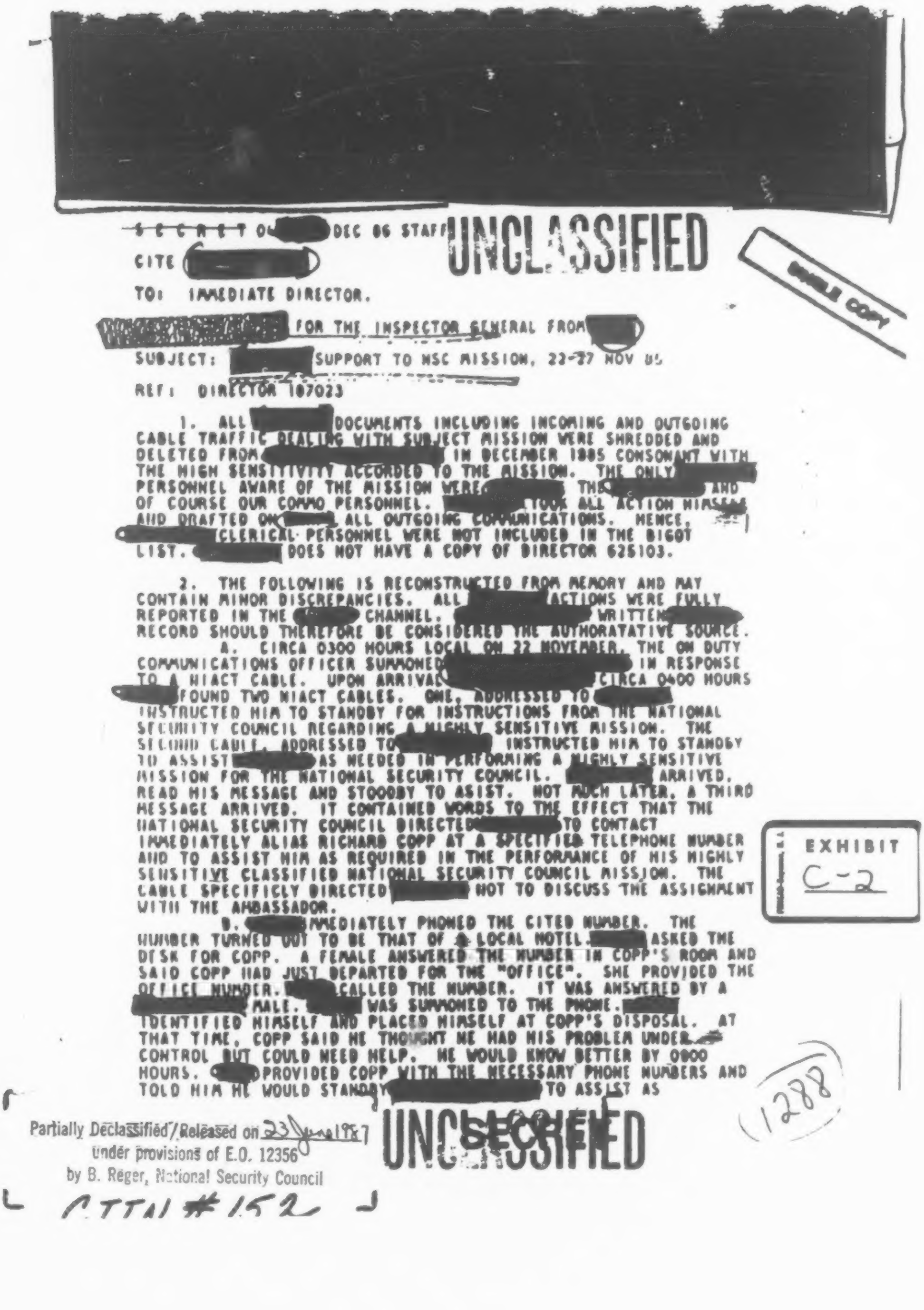
## EXHIBIT C–2



[redacted]

~~SECRET~~ 0[redacted] DEC 86 STAFF UNCLASSIFIED

SINGLE COPY

CITE [redacted]

TO: IMMEDIATE DIRECTOR.

[redacted] FOR THE INSPECTOR GENERAL FROM [redacted]

SUBJECT: [redacted] SUPPORT TO NSC MISSION, 22-27 NOV 85

REF: DIRECTOR 107023

1. ALL [redacted] DOCUMENTS INCLUDING INCOMING AND OUTGOING CABLE TRAFFIC DEALING WITH SUBJECT MISSION WERE SHREDDED AND DELETED FROM [redacted] IN DECEMBER 1985 CONSONANT WITH THE HIGH SENSITIVITY ACCORDED TO THE MISSION. THE ONLY [redacted] PERSONNEL AWARE OF THE MISSION WERE [redacted] THE [redacted] AND OF COURSE OUR COMMO PERSONNEL. [redacted] TOOK ALL ACTION HIMSELF AND DRAFTED ON [redacted] ALL OUTGOING COMMUNICATIONS. HENCE, [redacted] CLERICAL PERSONNEL WERE NOT INCLUDED IN THE BIGOT LIST. [redacted] DOES NOT HAVE A COPY OF DIRECTOR 625103.

2. THE FOLLOWING IS RECONSTRUCTED FROM MEMORY AND MAY CONTAIN MINOR DISCREPANCIES. ALL [redacted] ACTIONS WERE FULLY REPORTED IN THE [redacted] CHANNEL. [redacted] WRITTEN [redacted] RECORD SHOULD THEREFORE BE CONSIDERED THE AUTHORATATIVE SOURCE.

A. CIRCA 0300 HOURS LOCAL ON 22 NOVEMBER, THE ON DUTY COMMUNICATIONS OFFICER SUMMONED [redacted] IN RESPONSE TO A NIACT CABLE. UPON ARRIVAL [redacted] CIRCA 0400 HOURS [redacted] FOUND TWO NIACT CABLES. ONE, ADDRESSED TO [redacted] INSTRUCTED HIM TO STANDBY FOR INSTRUCTIONS FROM THE NATIONAL SECURITY COUNCIL REGARDING A HIGHLY SENSITIVE MISSION. THE SECOND CABLE, ADDRESSED TO [redacted] INSTRUCTED HIM TO STANDBY TO ASSIST [redacted] AS NEEDED IN PERFORMING A HIGHLY SENSITIVE MISSION FOR THE NATIONAL SECURITY COUNCIL. [redacted] ARRIVED, READ HIS MESSAGE AND STOODBY TO ASIST. NOT MUCH LATER, A THIRD MESSAGE ARRIVED. IT CONTAINED WORDS TO THE EFFECT THAT THE NATIONAL SECURITY COUNCIL DIRECTED [redacted] TO CONTACT IMMEDIATELY ALIAS RICHARD COPP AT A SPECIFIED TELEPHONE NUMBER AND TO ASSIST HIM AS REQUIRED IN THE PERFORMANCE OF HIS HIGHLY SENSITIVE CLASSIFIED NATIONAL SECURITY COUNCIL MISSION. THE CABLE SPECIFICLY DIRECTED [redacted] NOT TO DISCUSS THE ASSIGNMENT WITH THE AMBASSADOR.

B. [redacted] IMMEDIATELY PHONED THE CITED NUMBER. THE NUMBER TURNED OUT TO BE THAT OF A LOCAL HOTEL. [redacted] ASKED THE DESK FOR COPP. A FEMALE ANSWERED THE NUMBER IN COPP'S ROOM AND SAID COPP HAD JUST DEPARTED FOR THE "OFFICE". SHE PROVIDED THE OFFICE NUMBER. [redacted] CALLED THE NUMBER. IT WAS ANSWERED BY A [redacted] MALE. [redacted] WAS SUMMONED TO THE PHONE. [redacted] IDENTIFIED HIMSELF AND PLACED HIMSELF AT COPP'S DISPOSAL. AT THAT TIME, COPP SAID HE THOUGHT HE HAD HIS PROBLEM UNDER CONTROL BUT COULD NEED HELP. HE WOULD KNOW BETTER BY 0800 HOURS. [redacted] PROVIDED COPP WITH THE NECESSARY PHONE NUMBERS AND TOLD HIM HE WOULD STANDBY [redacted] TO ASSIST AS

EXHIBIT C-2

1288

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[redacted]

REQUIRED. FROM THAT POINT, MATTERS DEVELOPED EXACTLY AS REPORTED IN DETAIL IN THE [redacted] TRAFFIC.

C. AS COPP'S PROBLEMS DEVELOPED AND [redacted] ATTEMPTED TO ASSIST HIM IN RESOLVING THEM, THE TWO TALKED [redacted]QUENTLY BY PHONE UNTIL COPP'S DEPARTURE ON 24 NOVEMBER. [redacted] REMAINED AT [redacted] THROUGHOUT THE ENTIRE PERIOD WITH THE EXCEPTION OF BRIEF VISITS HOME TO OBTAIN CLOTHING ETC. COPP WORKED OUT OF THE "OFFICE". IT SOON BECAME CLEAR THAT COPP HAD WITH HIM A SECURE COMMUNICATIONS TEAM WHICH WAS SET UP IN THE "OFFICE". THUS, COPP WAS IN DIRECT COMMUNICATION WITH THE NSC IN WASHINGTON. AS EVENTS EVOLVED [redacted] CONCLUDED COPP WAS OPERATING OUT OF OFFICE SPACE PROVIDED BY [redacted] INDICATED HE WAS A FELLOW OF DUBIOUS REPUTATION [redacted] HAD BEEN DEEPLY INVOLVED IN ARMS SHIPMENTS TO IRAN AND ELSEWHERE WHICH ORIGINATED [redacted]

D. COPP HAD ESSENTIALLY TWO PROBLEMS: ONE, HE URGENTLY NEEDED [redacted] LANDING RIGHTS FOR AN AIRCRAFT COMING FROM ISRAEL, AND TWO, HE NEEDED AN AIRCRAFT FROM [redacted] TO CARRY THE AIRPLANE'S CARGO ON TO TEHERAN. [redacted] APPARENTLY WAS THE LOCAL CONTACT WHO WAS TO ARRANGE FOR THE TWO ITEMS. [redacted]

E. AS EVENTS DEVELOPED, COPP TURNED TO [redacted] TO URGENTLY ASSIST IN OBTAINING THE LANDING RIGHTS AND THE SECOND AIRCRAFT. COPP QUOTED [redacted] AS SAYING THAT [redacted] WAS SUDDENLY BEING DIFFICULT AND WERE NOT MAKING A PLANE AVAILABLE AS PROMISED. AS THE [redacted] TRAFFIC INDICATES, [redacted] ATTEMPTED TO ASSIST ON BOTH COUNTS. [redacted] IN TRAFFIC TO HEADQUARTERS AND BY PHONE TO COPP OBSERVED THEY WERE TAKING THE WRONG APPROACH TO GET [redacted] PERMISSION FOR LANDING RIGHTS. ALL SOURCES INDICATED [redacted] PLANNED TO DEAL CORRECTLY AND FORMALLY WITH THE USG. RIGHTLY OR WRONGLY, THE [redacted] BELIEVED THAT [redacted] IN THE FACE OF THIS DETERMINATION, COPP HAD THE DIFFICULT PROBLEM OF PERSUADING [redacted] TO PERMIT HIM AT THE LAST MOMENT TO MOUNT HIS MISSION [redacted] RECOMMENDED TO HQS AND COPP THAT THE MOST SECURE AND EFFICIENT MEANS TO OBTAINING LANDING RIGHTS WOULD BE TO [redacted] CONFIDENTIALLY AND URGENTLY REQUEST [redacted] FOREIGN MINISTER'S PERSONAL INTERVENTION. [redacted] WAS DIRECTED BY HEADQUARTERS (NOT TO [redacted] AND) TO PROCEED IN ASSISTING COPP PULLING OUT ALL STOPS.

F. [redacted] BY THIS TIME, COPP HAD ADVISED BY PHONE THE MISSION WAS "HUMANITARIAN" IN NATURE [redacted] ALSO APPROPRIATELY VIA AN INTERMEDIARY CONTACTED THE HEAD OF [redacted] REPLIED HE WAS WILLING TO CHARTER AN AIRCRAFT BUT ONLY HAD TWO APPROPRIATE FOR THE MISSION AND NEITHER WAS IN COUNTRY, ONE IN [redacted] AND ONE IN [redacted] IF MEMORY SERVES CORRECT.

~~SECRET~~

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[redacted]

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6. BY [redacted] AFTERNOON OF 22 NOVEMBER COPP AGREED THE BEST APPROACH HAD BECOME ASKING THE CHARGE/TO MAKE A DEMARCHE (TO THE FOREIGN MINISTER. HE RECOMMENDED SAME TO WASHINGTON. AND [redacted] WAS INSTRUCTED TO BRIEF THE CHARGE AND ENLIST HIS ASSISTANCE. [redacted] DID SO. FROM THAT POINT ON [redacted] COORDINATED

ACTIVITY OF CHARGE WITH COPP. AS THE RECORD SHOWS, THE [redacted] WERE FORMAL AND CORRECT IN THEIR RESPONSES AND QUIBBLED OVER MUCH OF THE WORDING OF THE REQUEST. AT SOME POINTS, ACCORDING TO COPP, MACFARLANE WHO WAS IN ROME TALKED TELEPHONICALLY WITH THE FOREIGN MINISTER AND PRIME MINISTER. SOMEBODY BEYOND [redacted] KEN DECIDED TO LAUNCH THE PLANE FROM ISRAEL BEFORE LANDING RIGHTS WERE OBTAINED. THE PLANE REACHED THE GO OR NO GO POINT BEFORE [redacted] WERE SATISFIED AND RETURNED TO ISRAEL. COPP DEPARTED [redacted] ON 24 NOVEMBER FOR SWITZERLAND AND THEN ISRAEL WHERE HE SAID THEY WERE HAVING DIFFICULTY LOADING THE EQUIPMENT INTO A SECOND PLANE AS THE FIRST WAS NO LONGER AVAILABLE.

3. [redacted] (AND THROUGH HIM THE CHARGE) WAS NOT BRIEFED ON THE MISSION'S OBJECTIVE UNTIL CIRCA 1100 HOURS ON SATURDAY 23 NOVEMBER. UNTIL THAT TIME THEY ONLY KNEW THEY WERE SUPPORTING A SENSITIVE NSC MISSION THAT INVOLVED A PLANE FLYING FROM ISRAEL [redacted] WITH A CARGO THAT HAD TO BE RELOADED AND CARRIED TO TEHERAN IN A SECOND PLANE. [redacted] AND CHARGE, GIVEN THE INVOLVEMENT OF ARMS MERCHANTS [redacted] AND THE USE OF THE PHRASE "HUMANITARIAN MISSION", MADE THE OBVIOUS ASSUMPTION. SOME KIND OF NSC OPERATION WAS ON THAT COULD BE INTENDED TO FREE HOSTAGES. BEFORE APPROACHING THE FOREIGN MINISTER, THE CHARGE ASKED TO BE ASSURED THAT SECRETARY SHULTZ WAS AWARE OF THE OPERATION AND THE REQUEST THAT HE APPROACH THE GOVERNMENT. THESE ASSURANCES WERE GIVEN.

4. AT CIRCA 1030 ON 23 NOVEMBER DURING A PHONE CONVERSATION, COPP ASKED IF [redacted] KNEW WHAT THE MISSION WAS ALL ABOUT. [redacted] REPLIED HE COULD MAKE SOME GUESSES BUT HAD NOT BEEN INFORMED. COPP OPINED THAT [redacted] CHARGE SHOULD KNOW IN ORDER TO ASSIST. AT 1100 HOURS ON 23 NOVEMBER COPP AND [redacted] MET IN [redacted] CAR FOR TEN MINUTES IN THE PARKING LOT OF A NEARBY HOTEL. THIS WAS THE ONLY DIRECT MEETING BETWEEN THE TWO. COPP ADVISED THAT THE PLANE WAS CARRYING HAWK MISSILES WHICH WERE BEING TAKEN TO IRAN AS PART OF A SENSITIVE MISSILES FOR HOSTAGES DEAL. HE NOTED THE IRANIANS WERE HIGHLY SUSPICIOUS AND DID NOT TRUST THEM AND THEY THEREFORE WERE UNDER EXTREME PRESSURE TO GET THE MISSILES TO TEHERAN AT THE AGREED UPON TIME. THIS WAS THE ONLY EXPLANATION GIVEN. SINCE THIS WAS THE FIRST TIME [redacted] WAS ABLE TO TALK WITH COPP WITH A FAIR DEGREE OF SECURITY [redacted] ADVISED THAT HE BELIEVED THEY HAD GONE ABOUT THE OPERATION [redacted] SOMEWHAT LESS THAN A PROFESSIONAL MATTER. [redacted] EXPRESSED MISGIVINGS ABOUT [redacted]

[redacted] ALSO, THE EFFORT AT THE AIRPORT [redacted] NOVEMBER PROBABLY DOOMED THE EFFORT TO [redacted] TWO MEN, ONE BEING [redacted] AND ONE BEING AN UNIDENTIFIED AMERICAN FROM THE NSC, ATTEMPTED TO INTERCEPT THE PRIME MINISTER'S PARTY AT THE AIRPORT WHEN RETURNING FROM A NATO MEETING IN BRUSSELS. THE PRIME MINISTER REACTED STRONGLY AND NEGATIVELY TO THIS APPROACH AND VIEWED ALL SUBSEQUENT CONTACTS WITH SUSPICION. [redacted]

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[redacted]

[illegible]. IN SHORT [redacted] STRONGLY RECOMMENDED THAT IN FUTURE OPERATIONS OF THIS NATURE THAT INVOLVED [redacted] THAT WE COULD BE MUCH MORE SUPPORTIVE IF BROUGHT IN SOONER AND THAT THE BEST AND MOST SECURE WAY TO OBTAINING LANDING PERMISSION WOULD BE TO ASK THE AMBASSADOR TO DISCREETLY APPROACH EITHER THE FOREIGN MINISTER OR PRIME MINISTER. COPP TOOK THE ADVICE IN GOOD SPIRIT.

5. [redacted] AND THE CHARGE BRIEFED THE AMBASSADOR [redacted] ON THE ABOVE DEVELOPMENTS WHEN THE AMBASSADOR RETURNED TO COUNTRY.

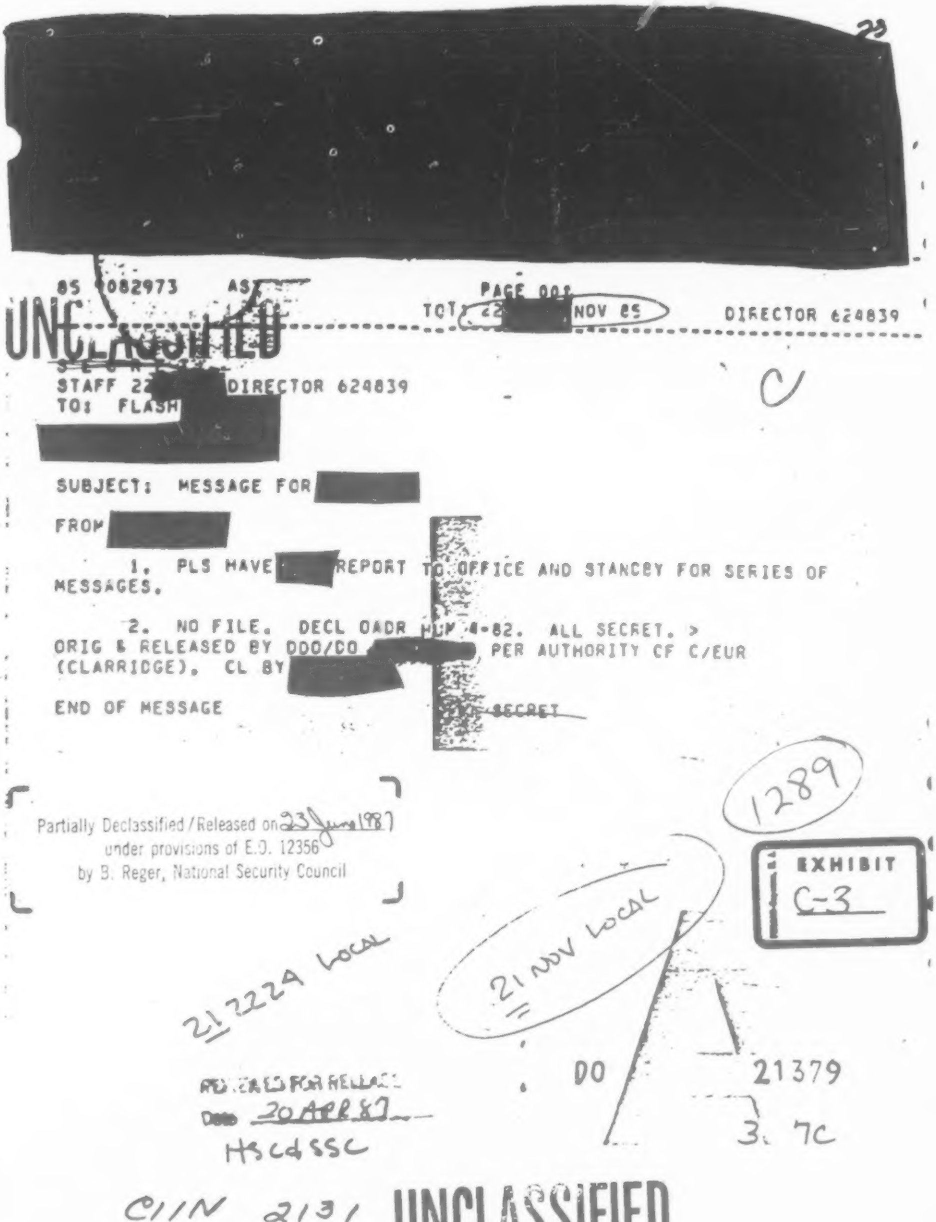
6. FILE: NONE. DECL OADR DRV [redacted]

END OF MESSAGE ~~SECRET~~

~~SECRET~~

UNCLASSIFIED

## EXHIBIT C-3



[redacted] 23

85 082973 AS

PAGE 001

TOT: 22 [redacted] NOV 85 DIRECTOR 624839

UNCLASSIFIED

STAFF 22 [redacted] DIRECTOR 624839
TO: FLASH [redacted]

C

SUBJECT: MESSAGE FOR [redacted]

FROM [redacted]

1. PLS HAVE [redacted] REPORT TO OFFICE AND STANCBY FOR SERIES OF MESSAGES.

2. NO FILE. DECL OADR HUM 4-82. ALL SECRET. >
ORIG & RELEASED BY DDO/CO [redacted] PER AUTHORITY CF C/EUR (CLARRIDGE). CL BY [redacted]

END OF MESSAGE ~~SECRET~~

1289

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EXHIBIT
C-3

21 NOV LOCAL

21 2224 LOCAL

DO 21379
3. 7C

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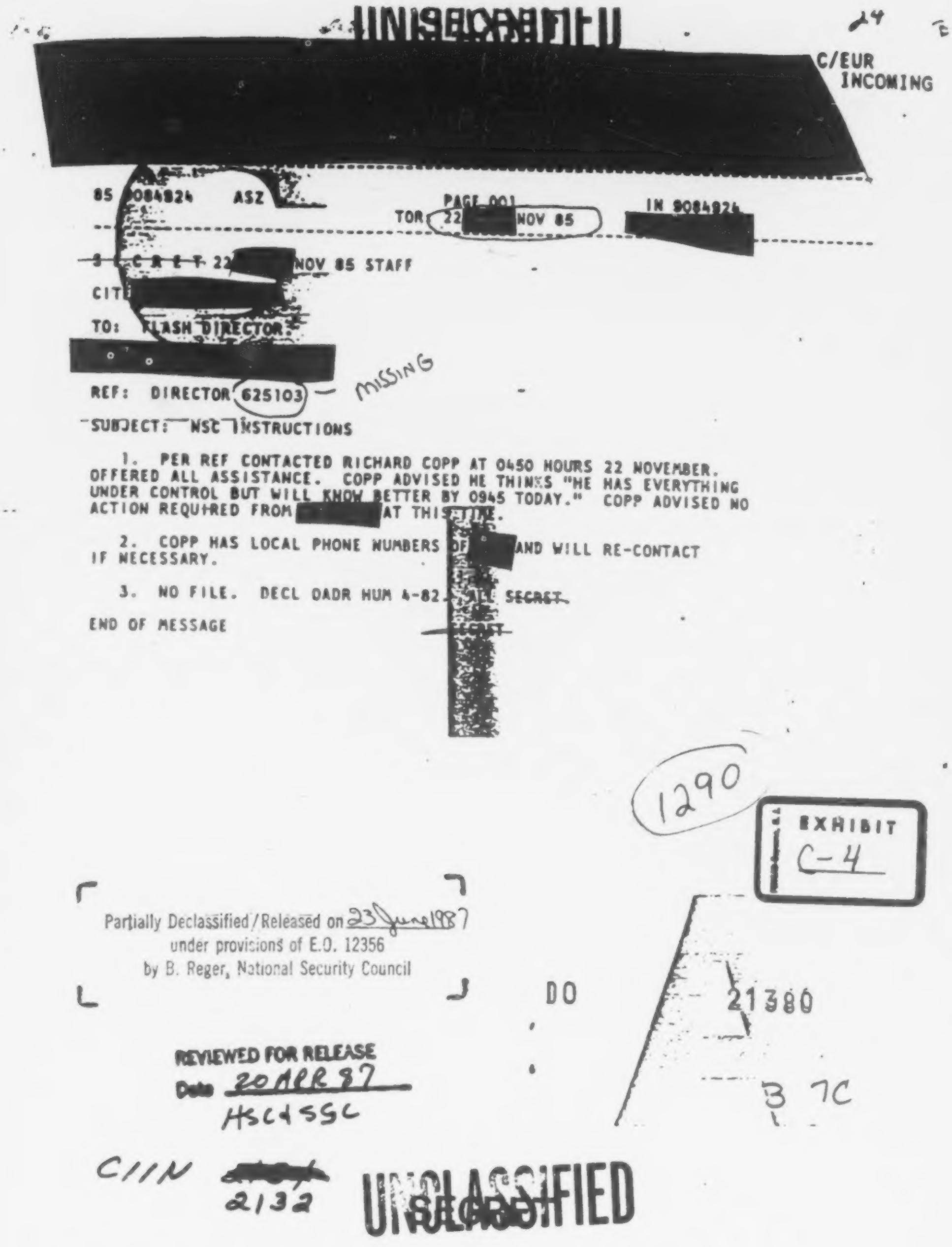
HSC & SSC

CIIN 2131 UNCLASSIFIED

## EXHIBIT C-4



UNCLASSIFIED ~~SECRET~~

24

[redacted]

C/EUR
INCOMING

85 9084924 ASZ

PAGE 001
TOR 22[redacted]NOV 85

IN 9084924 [redacted]

~~S E C R E T~~ 22[redacted]NOV 85 STAFF

CIT[redacted]

TO: FLASH DIRECTOR.

[redacted]

REF: DIRECTOR 625103 — MISSING

SUBJECT: NSC INSTRUCTIONS

1. PER REF CONTACTED RICHARD COPP AT 0450 HOURS 22 NOVEMBER. OFFERED ALL ASSISTANCE. COPP ADVISED HE THINKS "HE HAS EVERYTHING UNDER CONTROL BUT WILL KNOW BETTER BY 0945 TODAY." COPP ADVISED NO ACTION REQUIRED FROM [redacted] AT THIS TIME.

2. COPP HAS LOCAL PHONE NUMBERS OF [redacted] AND WILL RE-CONTACT IF NECESSARY.

3. NO FILE. DECL OADR HUM 4-82. ALL ~~SECRET.~~

END OF MESSAGE

~~SECRET~~

1290

EXHIBIT
C-4

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DO

21380

3 7C

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HSC + SSC

C1IN ~~[illegible]~~ 2132

UNCLASSIFIED ~~SECRET~~

# EXHIBIT C–5

UNCLASSIFIED SECRET

25

3

C/EUR
INCOMING

[redacted]

85 [illegible] ASZ [illegible] PAGE 001 [redacted] IN 9088770
TOR: 22[redacted] NOV 85 [redacted]

S[illegible]E T 22[redacted] NOV 85 STAFF

C[illegible]

TO: [illegible] DIRECTOR

[redacted]

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SUBJECT: NSC MISSION

REF DIRECTOR 625103

1. [redacted] CONTACTED COPP AGAIN AT 0900 HOURS 22 NOVEMBER. AT THAT TIME HE ONLY REQUIRED ASSISTANCE IN VERIFYING TELEPHONE NUMBERS OF PM AND FM. WE DID SO. HE STATED HE WAS ARRANGING TELEPHONE CALL FROM VERY SENIOR OFFICIAL[redacted] HE ASKED WE TAKE NO ACTION AT THAT TIME. AT 1250 HOURS [redacted] PHONED [redacted] WITH URGENT REQUEST FOR ASSISTANCE. HE A[redacted] MINISTER OF FOREIGN AFFAIRS HAD APPROVED EL-AL CHARTER F[redacted] BUT HAD NOT SIGNED PAPER BEFORE GOING TO BRUSSELS. FOR[redacted]INISTER RETURNED TO [redacted] BUT WAS OCCUPIED MORNING OF 2[redacted]MBER [redacted] HE NOTED [redacted] MFA, REFUSED TO ISSUE APP[redacted]PENDING MINISTER'S SIGNATURE. THIS PUT COPP IN BIND AS [redacted] FOR PLANE'S DEPARTURE WAS TWENTY-MINUTES AWAY AT [redacted] POINT. [redacted] POINTED OUT THAT IN THIS K[redacted] APPROACH CHARGE COULD ALSO EFFECTIVELY ASSIST. COPP[redacted]PTING [redacted] RECOMMENDATION ON BEHALF OF CHARGE, S[redacted] HE WOULD PHONE WASHINGTON AND ASK THEM TO ALSO ENLIS[redacted]ARGE'S HELP. THIS WAS NECESSARY IN [redacted] VIEW BECAUSE THE MOMENT WE STARTING PUTTING OVERT PRESSURE ON PM OFFICE AND FM WE OPENED THE VERY REAL POSSIBILITY THAT THE DEMARCHE WOULD GET BACK TO THE AMBASSADOR CREATING A DELICATE POLITICAL PROBLEM.

EXHIBIT
C-5

1291

2. [redacted]

3. [redacted]

DO 2/381

3[illegible]C

4. [redacted] THEN PHONED COPP AND ADVISED HIM OF DEVELOPMENTS. HE REPORTED HE HAD TALKED WITH WASHINGTON AND OBTAINED THEIR

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C11N 2133

UNCLASSIFIED SECRET

26

UNCLASSIFIED

85 9088770 ASZ PAGE 002 IN 9088770
TOR: 22[redacted]NOV 85

AGR[illegible] THE CHARGE ALSO. [redacted]

[redacted]RTED CHARGE NOT TO DEPART EMBASSY.
[illegible]ATELY, HE WAS IN HIS OFFICE AND AGREED TO STANDBY.
[illegible]SHOULD BE ABLE TO ASSIST WITH HIS OVERT CONTACTS.

[redacted]

[illegible] COPP HAS JUST ADVISED [redacted] THAT PLANE HAS MISSED ITS
T[illegible]WINDOW BU[illegible]SION COMMANDER IS STILL STANDING BY.
C[illegible]ISED IT [illegible]SSIBLE PLANE WILL TAKE OFF WITHOUT THE
[redacted] WE WILL CONTINUE TO WORK ON THE
PROB[illegible]

6. FILE: NONE. DECL OADR DRV HUM 4-82.
END OF MESSAGE ~~SECRET~~

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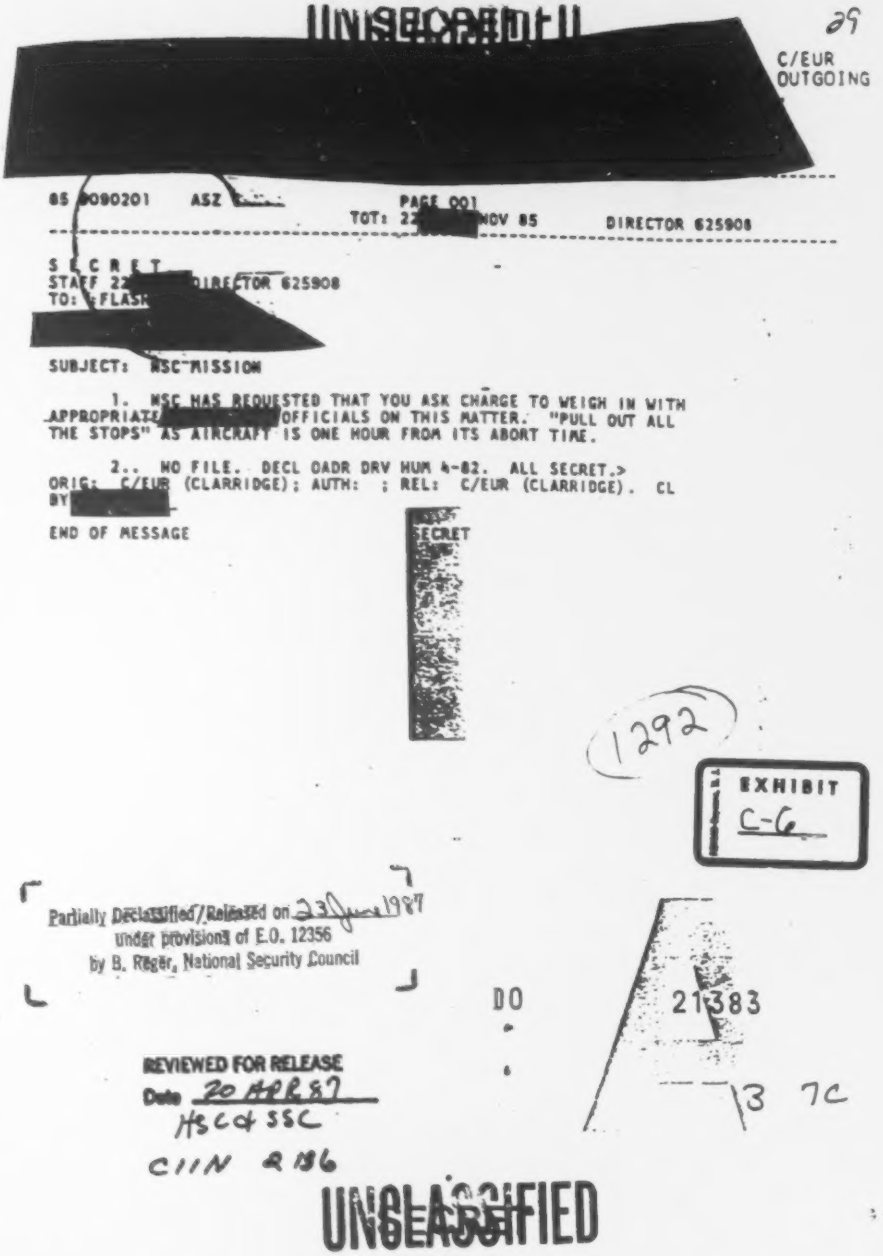
Date 20 APR 87
HSC & SSC

CIIN 2132

UNCLASSIFIED

## EXHIBIT C–6



UNCLASSIFIED

SECRET

29

C/EUR
OUTGOING

[redacted]

```
85 0090201    ASZ [redacted]              PAGE 001
                                 TOT: 22[redacted]NOV 85       DIRECTOR 625908
--------------------------------------------------------------------------------
SECRET
STAFF 22[redacted]DIRECTOR 625908
TO: [redacted]FLASH
[redacted]

SUBJECT:  NSC MISSION

     1.  NSC HAS REQUESTED THAT YOU ASK CHARGE TO WEIGH IN WITH
APPROPRIATE[redacted]OFFICIALS ON THIS MATTER.  "PULL OUT ALL
THE STOPS" AS AIRCRAFT IS ONE HOUR FROM ITS ABORT TIME.

     2..  NO FILE.  DECL OADR DRV HUM 4-82.  ALL SECRET.>
ORIG:  C/EUR (CLARRIDGE); AUTH:  ; REL:  C/EUR (CLARRIDGE).  CL
BY[redacted]

END OF MESSAGE
```

SECRET

1292

EXHIBIT
C-6

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DO

21383

3 7C

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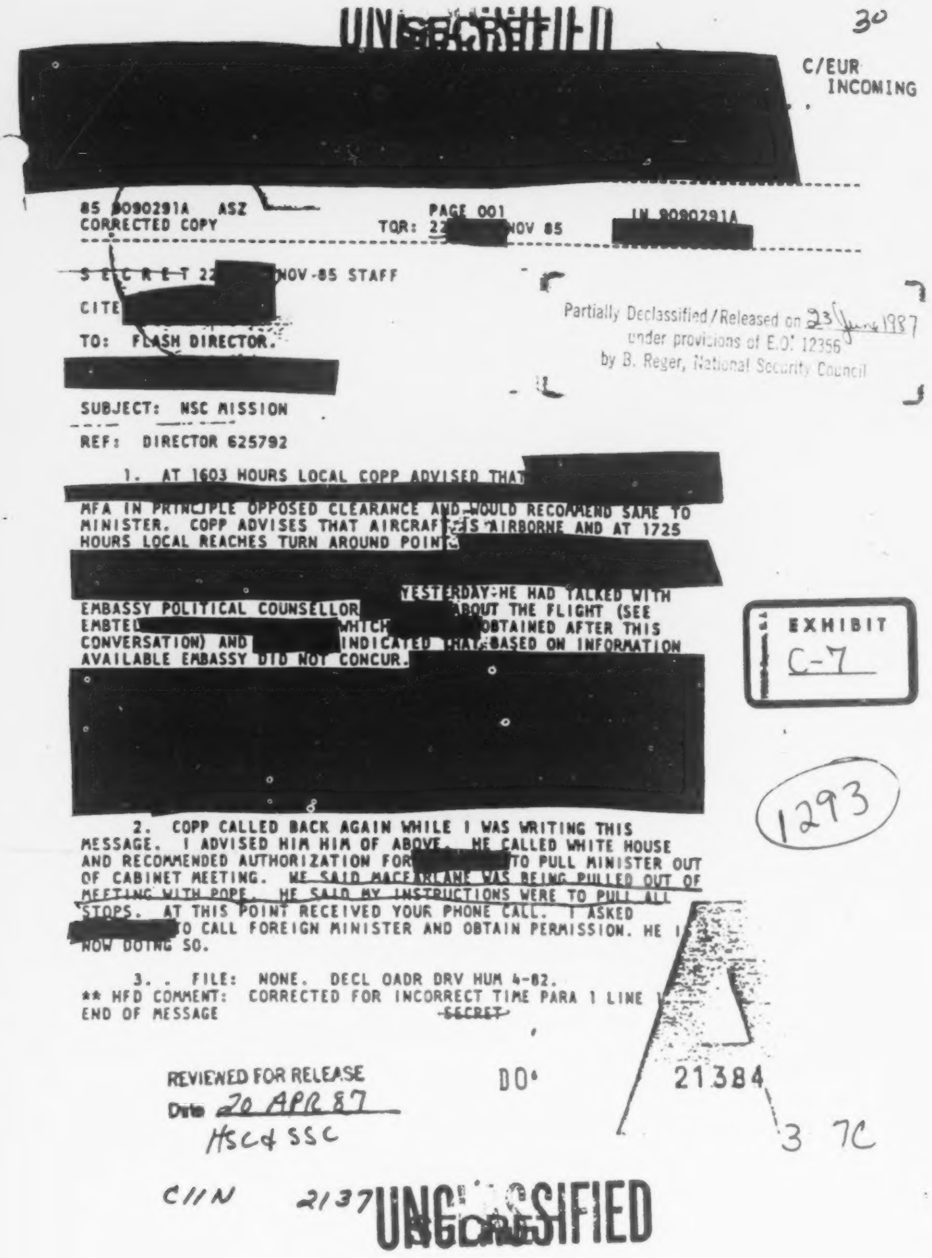
HSC & SSC

CIIN 2136

UNCLASSIFIED

SECRET

## EXHIBIT C-7



UNCLASSIFIED

30

C/EUR
INCOMING

[redacted]

85 0090291A ASZ
CORRECTED COPY
PAGE 001
TOR: 22 [redacted] NOV 85
IN 0090291A
[redacted]

~~SECRET~~ 22 [redacted] NOV-85 STAFF

CITE [redacted]

TO: FLASH DIRECTOR.

[redacted]

SUBJECT: NSC MISSION

REF: DIRECTOR 625792

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1. AT 1603 HOURS LOCAL COPP ADVISED THAT [redacted] MFA IN PRINCIPLE OPPOSED CLEARANCE AND WOULD RECOMMEND SAME TO MINISTER. COPP ADVISES THAT AIRCRAFT IS AIRBORNE AND AT 1725 HOURS LOCAL REACHES TURN AROUND POINT. [redacted] YESTERDAY HE HAD TALKED WITH EMBASSY POLITICAL COUNSELLOR [redacted] ABOUT THE FLIGHT (SEE EMBTEL [redacted] WHICH [redacted] OBTAINED AFTER THIS CONVERSATION) AND [redacted] INDICATED THAT BASED ON INFORMATION AVAILABLE EMBASSY DID NOT CONCUR. [redacted]

EXHIBIT
C-7

1293

2. COPP CALLED BACK AGAIN WHILE I WAS WRITING THIS MESSAGE. I ADVISED HIM HIM OF ABOVE. HE CALLED WHITE HOUSE AND RECOMMENDED AUTHORIZATION FOR [redacted] TO PULL MINISTER OUT OF CABINET MEETING. HE SAID MACFARLANE WAS BEING PULLED OUT OF MEETING WITH POPE. HE SAID MY INSTRUCTIONS WERE TO PULL ALL STOPS. AT THIS POINT RECEIVED YOUR PHONE CALL. I ASKED [redacted] TO CALL FOREIGN MINISTER AND OBTAIN PERMISSION. HE I NOW DOING SO.

3. . FILE: NONE. DECL OADR DRV HUM 4-82.
** HFD COMMENT: CORRECTED FOR INCORRECT TIME PARA 1 LINE
END OF MESSAGE ~~SECRET~~

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HSC & SSC

DO

21384

3 7C

C11N 2137 UNCLASSIFIED

## EXHIBIT C-8

UNCLASSIFIED

34

C/EUR
OUTGOING

[redacted]

85 0092988 ASZ PAGE 001
TOT: 22[redacted]NOV 85 DIRECTOR 626226

~~S E C R E T~~
STAFF 22[redacted]DIRECTOR 626226
TO: FLASH
[redacted]

SUBJECT: NSC MISSION

REF: [redacted]

1. PER INSTRUCTIONS FROM DEPUTY ASSISTANT TO THE PRESIDENT FOR NATIONAL SECURITY AFFAIRS ADMIRAL POINDEXTER, [redacted] IS REQUESTED TO ADVISE CHARGE THAT ONLY SECSTATE AND AMBASSADOR OAKLEY ARE AWARE OF THIS OPERATION. ADMIRAL POINDEXTER IS MOST APPRECIATIVE OF THE SPLENDID EFFORTS THAT THE CHARGE IS MAKING TO ACCOMPLISH THIS MISSION AND REITERATES THAT ANY MESSAGES THAT THE CHARGE WISHES TO SEND TO [redacted] SHOULD BE IN [redacted] CHANNELS.

2. WE ARE ATTEMPTING TO PUT TOGETHER ANOTHER SPECIAL FLIGHT FOR 23 OR 24 NOVEMBER, AND THUS YOUR UNDERSTANDING WE STILL WANT [redacted] APPROVAL IS CORRECT.

EXHIBIT
C-8

3. MCFARLAND IS STILL TRYING TO TELEPHONE FOREIGN MINISTER. PLEASE ENSURE THAT APPROPRIATE [redacted] AUTHORITIES UNDERSTAND WHO MCFARLAND IS AND WHO HE REPRESENTS.

4. NO FILE. DECL OADR DRV [illegible]-82. ALL ~~SECRET~~.>
ORIG: C/EUR (CLARRIDGE); AUTH: ; REL: C/EUR (CLARRIDGE). CL BY [redacted]

END OF MESSAGE ~~SECRET~~

1294

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DO 21388

3. 7C

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Date 20 APR 1987
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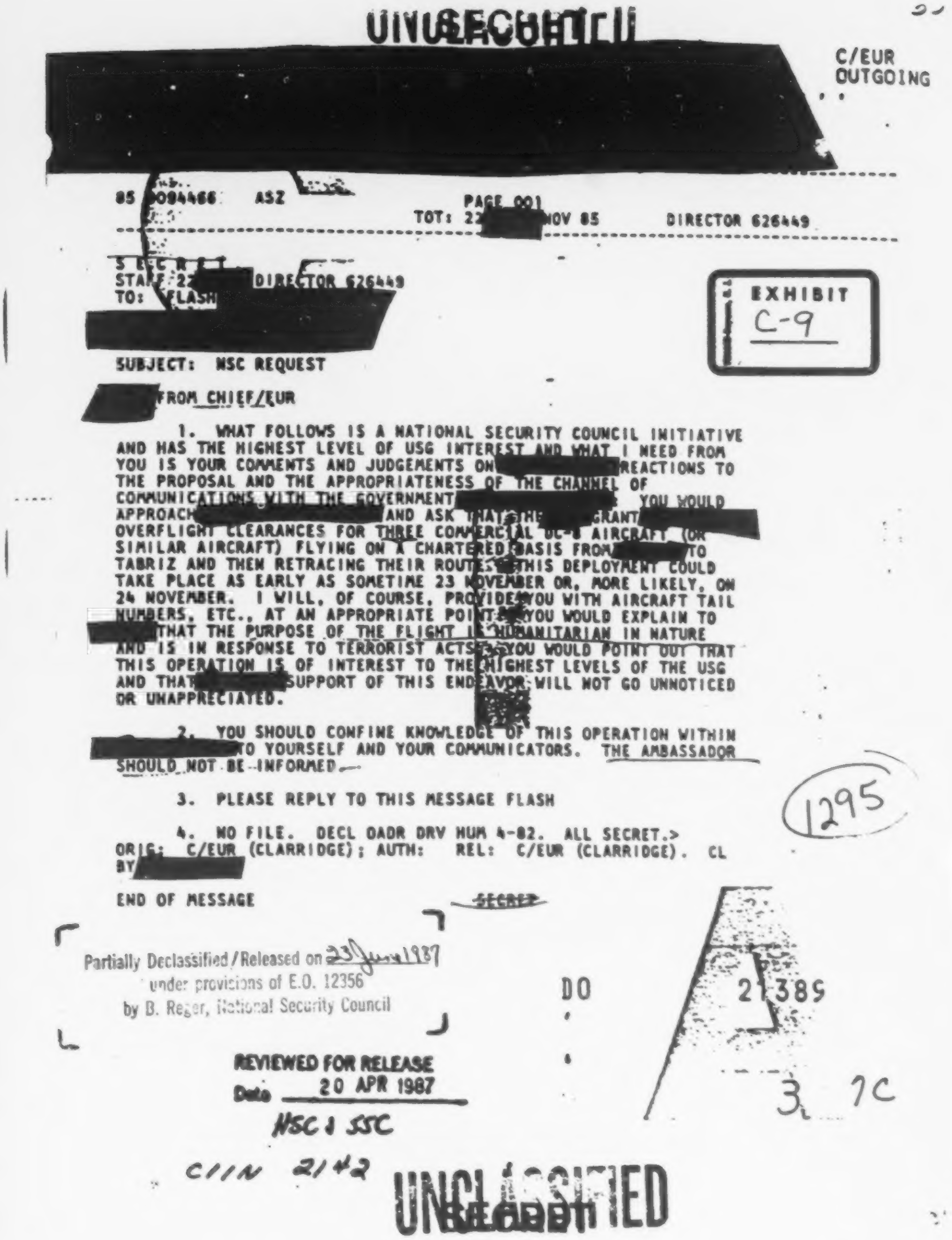
C11N 2141

UNCLASSIFIED

## EXHIBIT C-9



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SECRET

[redacted]

C/EUR
OUTGOING

85 0094466 ASZ

PAGE 001
TOT: 22[redacted]NOV 85 DIRECTOR 626449

S E C R E T
STAFF 22[redacted]DIRECTOR 626449
TO: FLASH [redacted]

EXHIBIT
C-9

SUBJECT: NSC REQUEST

[redacted] FROM CHIEF/EUR

1. WHAT FOLLOWS IS A NATIONAL SECURITY COUNCIL INITIATIVE AND HAS THE HIGHEST LEVEL OF USG INTEREST AND WHAT I NEED FROM YOU IS YOUR COMMENTS AND JUDGEMENTS ON [redacted] REACTIONS TO THE PROPOSAL AND THE APPROPRIATENESS OF THE CHANNEL OF COMMUNICATIONS WITH THE GOVERNMENT [redacted]. YOU WOULD APPROACH [redacted] AND ASK THAT THE [redacted] GRANT [redacted] OVERFLIGHT CLEARANCES FOR THREE COMMERCIAL DC-8 AIRCRAFT (OR SIMILAR AIRCRAFT) FLYING ON A CHARTERED BASIS FROM [redacted] TO TABRIZ AND THEN RETRACING THEIR ROUTE. THIS DEPLOYMENT COULD TAKE PLACE AS EARLY AS SOMETIME 23 NOVEMBER OR, MORE LIKELY, ON 24 NOVEMBER. I WILL, OF COURSE, PROVIDE YOU WITH AIRCRAFT TAIL NUMBERS, ETC., AT AN APPROPRIATE POINT. YOU WOULD EXPLAIN TO [redacted] THAT THE PURPOSE OF THE FLIGHT IS HUMANITARIAN IN NATURE AND IS IN RESPONSE TO TERRORIST ACTS. YOU WOULD POINT OUT THAT THIS OPERATION IS OF INTEREST TO THE HIGHEST LEVELS OF THE USG AND THAT [redacted] SUPPORT OF THIS ENDEAVOR WILL NOT GO UNNOTICED OR UNAPPRECIATED.

2. YOU SHOULD CONFINE KNOWLEDGE OF THIS OPERATION WITHIN [redacted] TO YOURSELF AND YOUR COMMUNICATORS. THE AMBASSADOR SHOULD NOT BE INFORMED.

3. PLEASE REPLY TO THIS MESSAGE FLASH

1295

4. NO FILE. DECL OADR DRV HUM 4-82. ALL SECRET.>
ORIG: C/EUR (CLARRIDGE); AUTH: REL: C/EUR (CLARRIDGE). CL BY [redacted]

END OF MESSAGE ~~SECRET~~

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Date 20 APR 1987
NSC & SSC

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C11N 2142

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SECRET

## Exhibit C-10

UNCLASSIFIED
SECRET

37

C/EUR
ACTION

[redacted]

85 9095950 ASZ PAGE 001 IN 9095950
TOR: 23[redacted]NOV 85 [redacted]

~~S E C R E T~~ 22[redacted]NOV 85 STAFF

CITE[redacted]

TO: FLASH DIRECTOR.

[redacted]

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under provisions of E.O. 12356
by B. Reger, National Security Council

SUBJECT: NSC MISSION ?

REF: DIRECTOR 626226

1. COPP ADVISES NSC IS WORKING ON THREE POSSIBLE SCENARIOS: A) REPEAT TODAY'S EFFORT TOMORROW; B) USE THREE SMALLER BIRDS FROM ORIGINATING POINT TO[redacted]TO DESTINATION; C) NOT INVOCVE[redacted]FURTHER IN PLANS. THE DECISION WILL BE MADE SOON.

2.[redacted]FOREIGN MINISTRY PHONED CHARGE 2200 HOURS LOCAL TO ADVISE MEETING HAD CONCLUDED WITHOUT GIVING APPROVAL FOR FLIGHT.[redacted]SAID THE EMBASSY MUST SEND FORMAL DIPLOMATIC NOTE TO FOREIGN MINISTRY. NOTE MUST CONTAIN CHARACTERISTICS OF AIRCRAFT, ROUTES TO AND FROM[redacted]AND CARGO. UPON RECEIPT OF NOTE FM WILL CONSIDER REQUEST. CHARGE ASKED IF[redacted]WOULD BE IN MINISTRY TOMORROW.[redacted]ASKED WHEN CHARGE COULD HAVE NOTE PREPARED. CHARGE STATED HE COULD HAVE NOTE AT FM BY 1100 HOURS 23 NOVEMBER.[redacted]SAID HE WOULD BE THERE WAITING. CHARGE ASKED IF WE HAVE NOTE BY 1100 HOURS AT FM COULD WE ANTICIPATE APPROVAL THAT WOULD PERMIT A 1720 HOURS ARRIVAL TIME AS PROJECTED FOR TODAY.[redacted]REPLIED HE COULD NOT MAKE THAT COMMITMENT.

EXHIBIT
C-10

3.[redacted]COMMENT: BASED ON TODAYS PERFORMANCE, WE CANNOT GUARANTEE THE[redacted]RESPONSE. HOWEVER, IT WOULD APPEAR THAT IF WE MEET THE[redacted]DEMAND FOR FORM THEY WILL RESPOND POSITIVELY IN SUBSTANCE.[redacted] ALL INDICATIONS ARE THAT[redacted]WILL REMAIN A LOYAL ALLY. WE CAN ANTICIPATE HOWEVER FURTHER DISPLAYS OF INDEPENDENCE AS THIS EPISODE REFLECTED.

4. COPP HAS BEEN INFORMED OF THE[redacted]RESPONSE. HE PLANS TO ALLOW TIME FOR THIS CABLE TO REACH HEADQUARTERS AND NSC THEN PHONE TO DISCUSS FURTHER OPTIONS.[redacted]COPP AND CHARGE ARE CLOSELY COORDINATING ALL ACTION THIS END.[redacted]WILL SPEND NIGHT IN[redacted]SO DO NOT HESITATE TO SEND FURTHER INSTRUCTIONS.

[redacted]

5. CHARGE ASSURES[redacted]ARE FULLY AWARE OF WHO MCFARLAND IS AND WHAT HE REPRESENTS.

1296

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6. FILE: NONE. DECL OADR DRV HUM 4-82.
END OF MESSAGE ~~SECRET~~

DO

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Date 20 APR 1987

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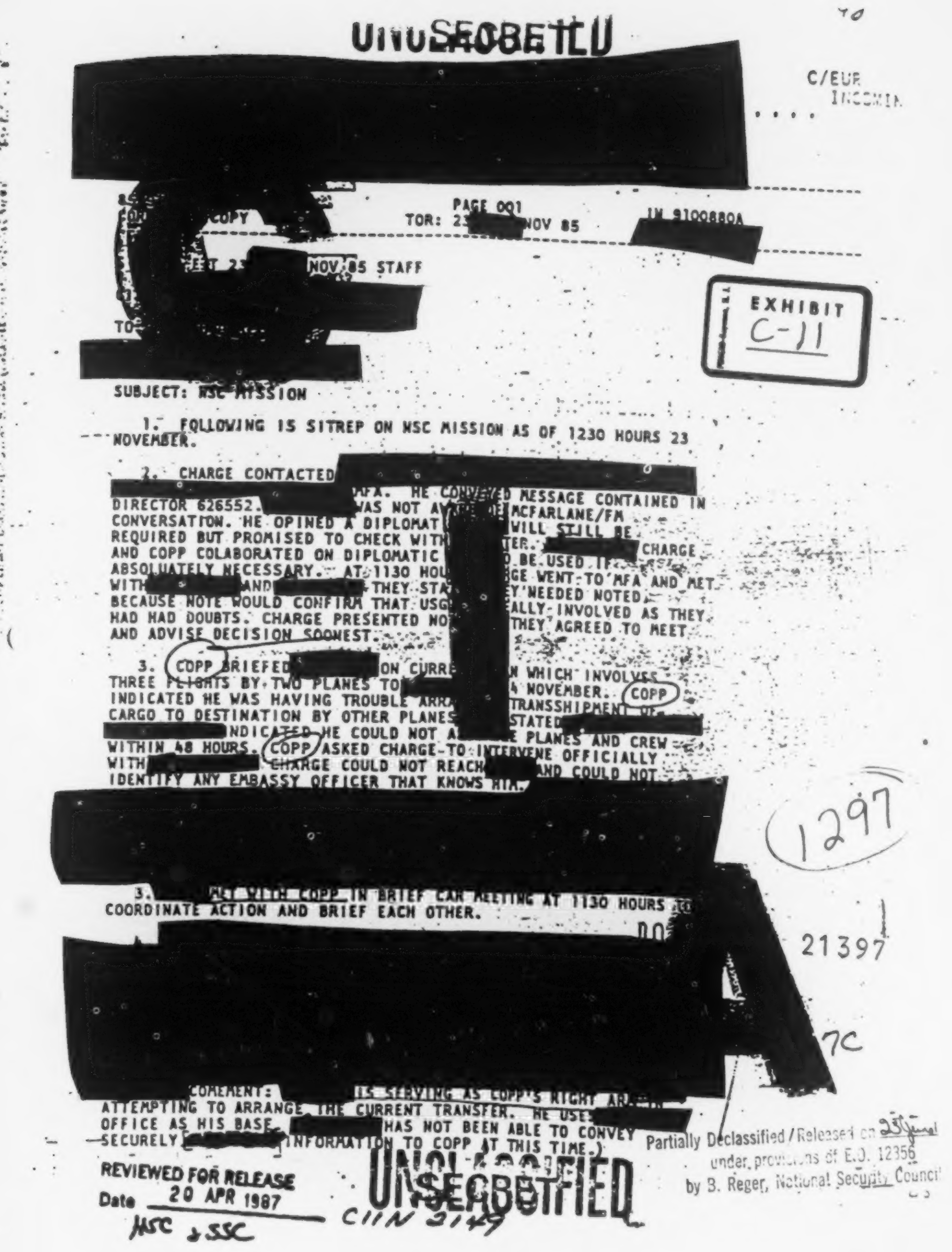
C1IN 2144 NSC 255C

## EXHIBIT C–11



SECRET

UNCLASSIFIED

40

C/EUR
INCOMIN

[redacted]

[redacted] COPY PAGE 001 TOR: 23 [redacted] NOV 85 IN 9100880A [redacted]

[redacted] 23 [redacted] NOV 85 STAFF

TO [redacted]

EXHIBIT
C-11

SUBJECT: NSC MISSION

1. FOLLOWING IS SITREP ON NSC MISSION AS OF 1230 HOURS 23 NOVEMBER.

2. CHARGE CONTACTED [redacted] MFA. HE CONVEYED MESSAGE CONTAINED IN DIRECTOR 626552. [redacted] WAS NOT A [redacted] MCFARLANE/FM CONVERSATION. HE OPINED A DIPLOMAT [redacted] WILL STILL BE REQUIRED BUT PROMISED TO CHECK WITH [redacted] TER. [redacted] CHARGE AND COPP COLABORATED ON DIPLOMATIC [redacted] D BE USED IF [redacted] ABSOLUATELY NECESSARY. AT 1130 HOU [redacted] GE WENT TO MFA AND MET WITH [redacted] AND [redacted] THEY STA [redacted] Y NEEDED NOTE [redacted] BECAUSE NOTE WOULD CONFIRM THAT USG [redacted] ALLY INVOLVED AS THEY HAD HAD DOUBTS. CHARGE PRESENTED NO [redacted] THEY AGREED TO MEET AND ADVISE DECISION SOONEST.

3. COPP BRIEFED [redacted] ON CURRE [redacted] N WHICH INVOLVES THREE FLIGHTS BY TWO PLANES TO [redacted] 4 NOVEMBER. COPP INDICATED HE WAS HAVING TROUBLE ARRA [redacted] TRANSSHIPMENT OF CARGO TO DESTINATION BY OTHER PLANES [redacted] STATED [redacted] INDICATED HE COULD NOT A [redacted] E PLANES AND CREW WITHIN 48 HOURS. COPP ASKED CHARGE TO INTERVENE OFFICIALLY WITH [redacted]. CHARGE COULD NOT REACH [redacted] AND COULD NOT IDENTIFY ANY EMBASSY OFFICER THAT KNOWS HIM.

[redacted]

1297

3. [redacted] MET WITH COPP IN BRIEF CAR MEETING AT 1130 HOURS TO COORDINATE ACTION AND BRIEF EACH OTHER.

[redacted]

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[redacted] COMMENT: [redacted] IS SERVING AS COPP'S RIGHT ARM IN ATTEMPTING TO ARRANGE THE CURRENT TRANSFER. HE USES [redacted] OFFICE AS HIS BASE. [redacted] HAS NOT BEEN ABLE TO CONVEY SECURELY [redacted] INFORMATION TO COPP AT THIS TIME.)

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SECRET UNCLASSIFIED

85 9100880A ASZ PAGE 002 IN 9100880A
CORRECTED TOR: 23[redacted]NOV 85 [redacted]

[redacted]

5. [redacted] ALL FORMALLY ON FM AND SUBMIT FORMAL REQUEST IN [redacted]. THE NOTE SHOULD INCLUDE ORIGIN AND DESTINATION OF FLIGHT, EQUIPMENT, US COMMITMENT THAT OPERATION NOT BE MADE PUBLIC AND AIRPORTS OTHER THAN [redacted] BUT IN [redacted] BE USED. THE CHARGE SHOULD SEND NOTE APOLOGIZING FOR APPROACH THAT WAS USED [redacted] THEY AT FIRST THOUGHT THIS WAS A PENTAGON OPERATION [redacted]

6. [redacted]

7. FILE: N. DECL OADR DRV HUM 4-8[redacted]

WASH S/C NOTE: DUPE MSGNBR WITH 9090[redacted]ING SERVICED
HFD COMMENT: CHANGED CITE NUMBER PERE[redacted]00880.
END OF MESSAGE SE[redacted]

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C11N 2149 SECRET UNCLASSIFIED

## EXHIBIT C-12

UNCLASSIFIED SECRET

48

[redacted]

C/EUR
OUTGOING

85 [redacted]101624 ASZ [redacted] PAGE 001
TOT: 23[redacted]NOV 85 DIRECTOR 627461

~~S E C R E T~~
STAFF 23[redacted] DIRECTOR 627461
TO: FLAS[redacted]

SUBJECT: NSC REQUEST

REF: A. DIRECTOR 626449
B.[redacted]

1. PLEASE CONTACT [redacted] IMMEDIATELY ALONG THE LINES OF REF A. YOU MAY STATE THAT THE OVERFLIGHT OF THREE AIRCRAFT IN THE NEXT 24-48 HOURS IS ESSENTIAL TO THE RELEASE OF THE WESTERN HOSTAGES SEIZED IN LEBANON.

2. WE WILL PROIVDE TAIL NUMBERS AND FLIGHT TIME OF THE AIRCRAFT AS SOON AS THEY ARE AVAILABLE.

3. YOU SHOULD ALSO INFORM [redacted] THAT WE WILL REQUEST CLEARANCES FOR AN ADDITIONAL TWO AIRCRAFT SOMETIME WITHIN THE NEXT WEEK.

4. PLEASE PULL OUT ALL THE STOPS ON THIS ONE.

5. FILE: NO FILE. DECL OADR DRV HUM 4-82. ALL SECRET.>
ORIG: C/EUR (CLARRIDGE); AUTH: C/EUR (CLARRIDGE); REL: C/EUR (CLARRIDGE). CL BY[redacted]

END OF MESSAGE ~~SECRET~~

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EXHIBIT
C-12

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C11N 2154 UNCLASSIFIED SECRET

OUTGOING MESSAGE OUTGOING MESSAGE OUTGOING MESSAGE

# Exhibit C-13

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[redacted]

C/EUR
OUTGOING

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85 02184    ASZ                PAGE 001
                         TOT: 23[redacted]NOV 85        DIRECTOR 627576
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~~S E C R E T~~
STAFF 23[redacted] DIRECTOR 627576
TO: FLASH [redacted]

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under provisions of E.O. 12356
by B. Reger, National Security Council

SUBJECT: NSC REQUEST

EXHIBIT
C-13

1. WE HAVE UNDERWAY IN THE NEXT 24-48 HOURS AN OPERATION AIMED AT THE RELEASE OF THE WESTERN HOSTAGES SEIZED IN LEBANON. THE OPERATION INVOLVES THE MOVEMENT OF AIRCRAFT FROM ISRAEL TO IRAN AND REQUIRES AN ENROUTE STOP [redacted] [redacted] WHICH WILL EASE PROBLEMS FOR OVERFLIGHT [redacted] A STOPOVER AT A MILITARY OR COMMERCIAL AIRFIELD [redacted] IN ORDER TO FILE FLIGHT PLAN FOR TABRIZ AND TO REFUEL WOULD GREATLY FACILITATE THIS EFFORT.

2. A TOTAL OF FIVE SORTIES ARE REQUIRED FOR THIS OPERATION. HOWEVER, IF [redacted] COULD AGREE TO ONE OF THESE OCCURRING IN THE NEXT 12 HOURS OR SO IT WOULD ALLOW US TO SHOW OUR GOOD FAITH TO THE PARTY INVOLVED AND LIKELY RESULT IN THE RELEASE OF THE HOSTAGES. WE COULD THEN ENDEAVOR TO ACCOMPLISH THE OTHER FOUR SORTIES THROUGH OTHER MEANS IF [redacted] [redacted] WERE UNWILLING TO ASSIST US FURTHER.

3. THE AIRCRAFT INVOLVED IS A COMMERCIAL BOEING 707 CARGO AIRCRAFT REGISTRY NUMBER [redacted] OWNED BY [redacted] IF [redacted] ARE AGREEABLE, I WILL PROVIDE YOU WITH FLIGHT TIMES.

4. WILL YOU PLEASE GO TO [redacted] ON THIS IMMEDIATELY. YOU CAN DRAW ON ANY OF THE ABOVE IN MAKING YOUR PRESENTATION TO HIM. I WOULD ASK HOWEVER THAT YOU IMPRESS UPON HIM THAT WE NEED ABSOLUTE DISCRETION IN THE MATTER. YOU CAN ALSO ASSURE HIM THAT THIS OPERATION IS OF GREAT INTEREST TO THE HIGHEST LEVELS OF THE USG AND IF IT WILL HELP I CAN ARRANGE FOR BUD MACFARLAND TO CALL WHOMEVER [redacted] MIGHT SUGGEST. NEEDLESS TO SAY, THAT IF [redacted] ASSIST US THEY CAN EXPECT TO RECEIVE MENTION IN DISPATCHES, APPROPRIATE LETTERS OF APPRECIATION FROM OUR PRESIDENT, ETC. AGAIN, I MUST STRESS THAT DISCRETION IS THE KEY ELEMENT WHICH YOU SHOULD STRESS TO [redacted] IN PRESENTING THIS MATTER. I WOULD ALSO ASK THAT YOU KEEP KNOWLEDGE OF THIS OPERATION LIMITED TO YOURSELF WITHIN [redacted] AND THE AMBASSADOR NEED NOT REPEAT NOT BE INFORMED. HOWEVER, IF [redacted] NEEDS TO BOUNCE THIS PROPOSAL OFF THE PRIME MINISTER OR SOMEONE SIMILAR WHO MIGHT BRING IT TO THE AMBASSADOR'S ATTENTION, I WILL SEEK SPECIAL AUTHORIZATION FOR YOU TO BRIEF HIM. BEST REGARDS AND WHY DO THESE ALWAYS HAPPEN ON THE WEEKEND.

1299

5. FILE: NO FILE. DECL OADR DRV HUM 4-82. ALL SECRET.>
ORIG: C/EUR (CLARRIDGE); AUTH: C/EUR (CLARRIDGE); REL: C/EUR (CLARRIDGE). CL BY [redacted]
END OF MESSAGE

~~SECRET~~ DO

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Date 20 APR 1987

C11N 8152

## EXHIBIT C–14

SECRET
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[redacted]

C/EUR
INCOMING

85 9102427 ASZ PAGE 001 IN 9102427
TOR: 23[redacted]NOV 85 [redacted]

~~SECRET~~ 23[redacted]NOV 85 STAFF

CITE [redacted]

TO: FLASH DIRECTOR, [redacted]

EXHIBIT
C-14

SUBJECT: NSC MISSION

1. AT 1800 LOCAL [redacted] INFORMED CHARGE THAT DECISION HAD BEEN REACHED BUT BEFORE IT COULD BE CONVEYED MFA REQUIRED SECOND NOTE. NOTE MUST CONTAIN TWO STATEMENTS: A) THE OPERATION HAD BEEN UNDERTAKEN FOR HUMANITARIAN REASONS: B) THE OPERATION IS BEING UNDERTAKEN TO FREE AMERICAN HOSTAGES. [redacted] STATED IT IS NOT NECESSARY TO [redacted] HERE. IF NOTE DELIVERED IMMEDIATELY, DECISION WILL SSUED FORTHWITH BUT CHARGE MUST DELIVER THE NOTE. CHARG ROUTE TO EMBASSY AND WE CAN HAVE NOTE READY IN ABOUT FORT MINUTES. COPP LIKE [redacted] CHARGE FINDS NO DIFFICULTY W IRST STATEMENT ON HUMANITARIAN REASONS. REFERENCE TO ICAN HOSTAGES IS OBVIOUS HANGING POINT. COPP DEFERRED WASHINGTON FOR DECISION. WE HEREBY REQUEST WASHINGT VIEWS THIS CHANNEL IMMEDIATELY. FYI: MACFARLANE HAS BE TRYING TO REACH PM AND OR FM FOR TWO HOURS. COPP ADVISES HE UNABLE TO GET THROUGH. CHARGE ASKED [redacted] WHY. HE ANSWE NO DECISION HAS BEEN MADE. CHARGE NOTED MACFARLANE WANTS ARTICIPATE IN DECISION MAKING. HE ASKED IF PHONE FOR EITHE MMEDIATE WHEREABOUTS AVAILABLE FOR IMMEDIATE CONTACT. AN WAS PM NOT AVAILABLE. FOREIGN MINISTER WILL TALK IN HOUR. [redacted] WAS GIVEN FOR FM'S CURRENT WHEREABOUTS. VIA COPP WE RECOMMENDED IMMEDIATE CALL BY MACFARLANE FROM [redacted] COPP ADVISES THIS NOW SET FOR 1830 LOCAL.

(1300)

2. NO FILE.

END OF MESSAGE ~~SECRET~~

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C11N 8157

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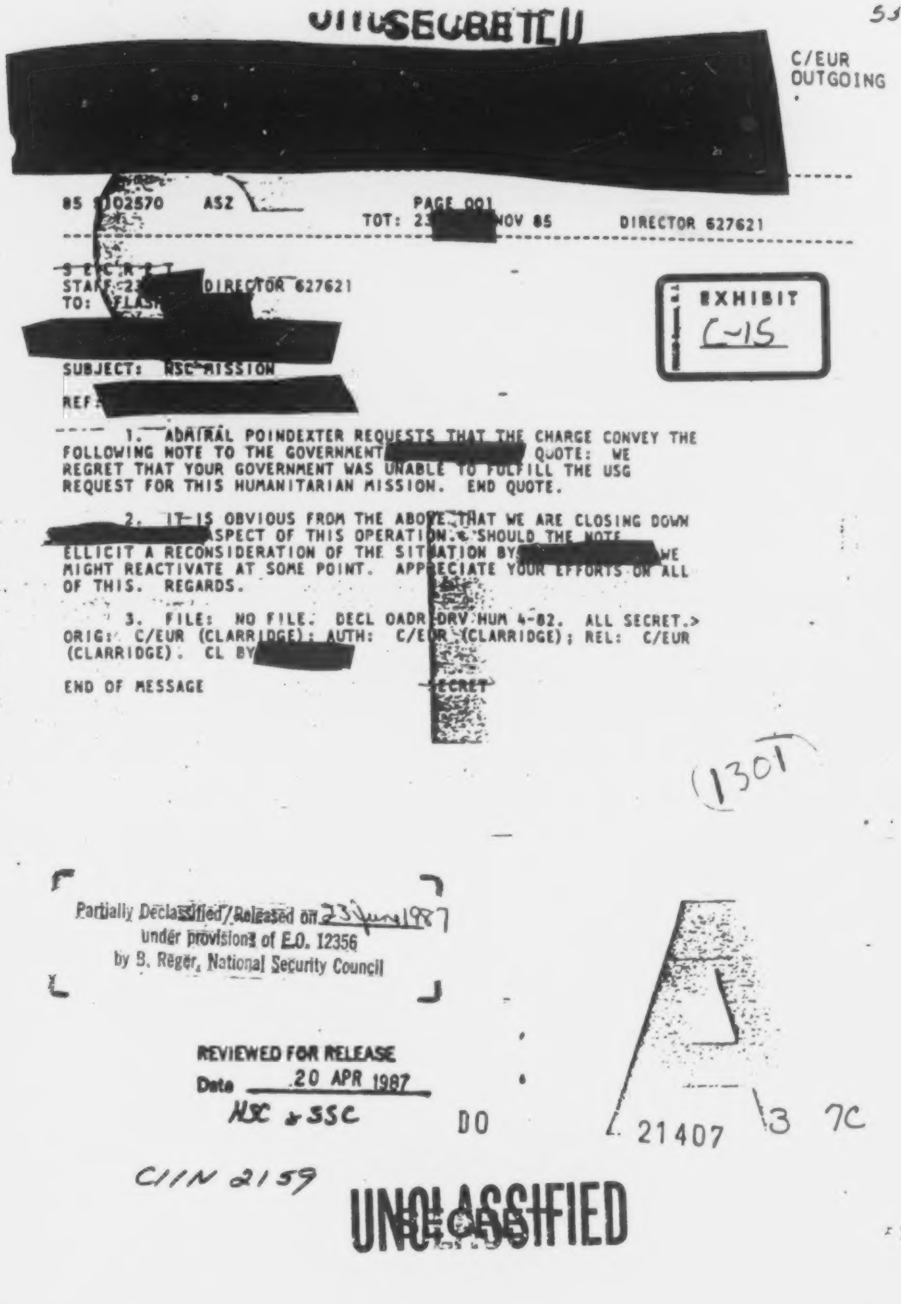
## EXHIBIT C-15



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53

[redacted]

C/EUR
OUTGOING

85 102570 ASZ PAGE 001
TOT: 23[redacted]NOV 85 DIRECTOR 627621

SECRET
STAFF 23[redacted] DIRECTOR 627621
TO: FLASH[redacted]

[redacted]

EXHIBIT
C-15

SUBJECT: NSC MISSION

REF: [redacted]

1. ADMIRAL POINDEXTER REQUESTS THAT THE CHARGE CONVEY THE FOLLOWING NOTE TO THE GOVERNMENT [redacted] QUOTE: WE REGRET THAT YOUR GOVERNMENT WAS UNABLE TO FULFILL THE USG REQUEST FOR THIS HUMANITARIAN MISSION. END QUOTE.

2. IT IS OBVIOUS FROM THE ABOVE THAT WE ARE CLOSING DOWN [redacted] ASPECT OF THIS OPERATION. SHOULD THE NOTE ELLICIT A RECONSIDERATION OF THE SITUATION BY [redacted] WE MIGHT REACTIVATE AT SOME POINT. APPRECIATE YOUR EFFORTS ON ALL OF THIS. REGARDS.

3. FILE: NO FILE. DECL OADR DRV HUM 4-82. ALL SECRET.>
ORIG: C/EUR (CLARRIDGE); AUTH: C/EUR (CLARRIDGE); REL: C/EUR (CLARRIDGE). CL BY [redacted]

END OF MESSAGE SECRET

(1301)

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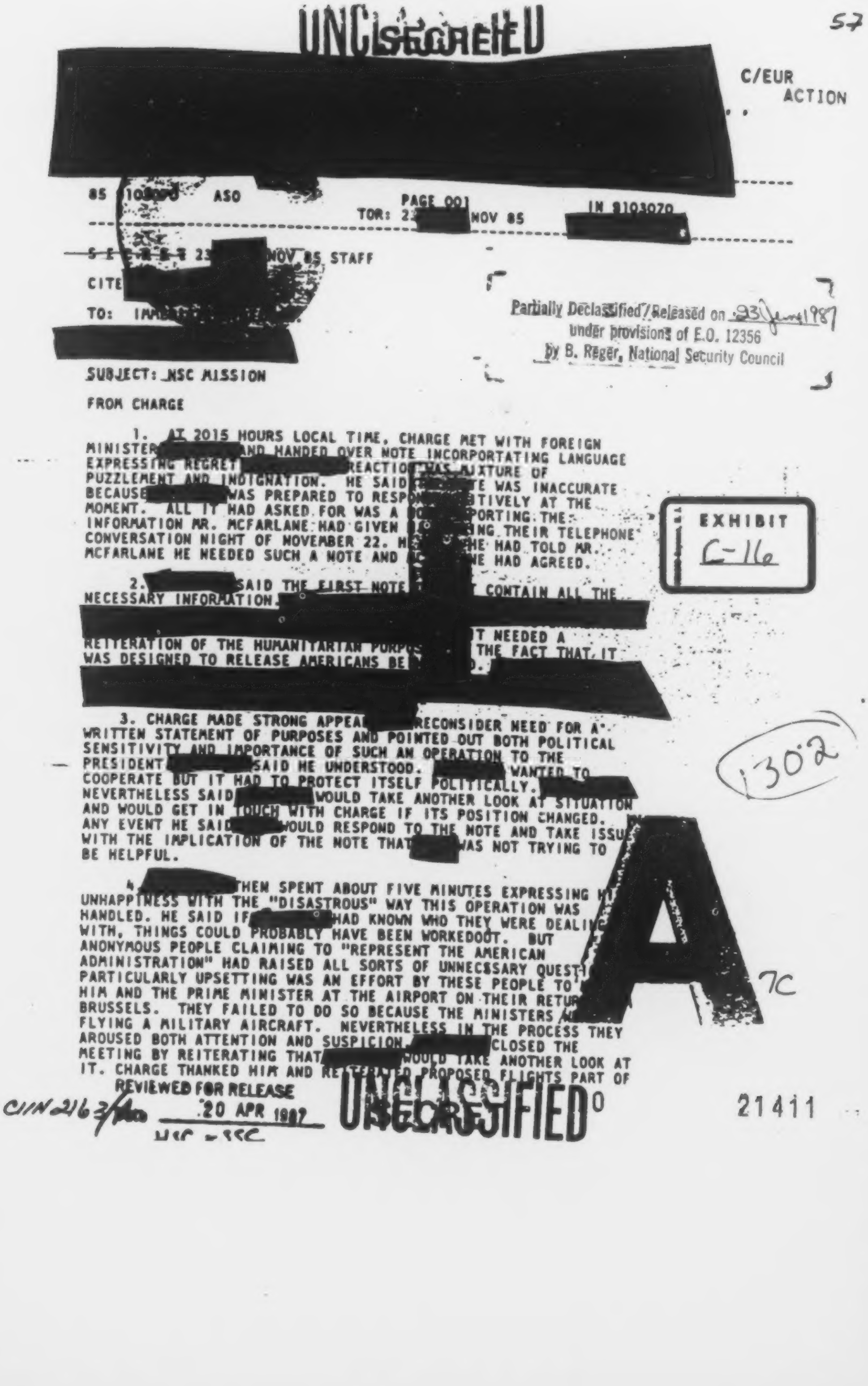
## EXHIBIT C-16



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57

[redacted]

C/EUR
ACTION

85 [redacted] ASO PAGE 001
TOR: 23[redacted]NOV 85 IN 9103070 [redacted]

~~S E C R E T~~ 23[redacted]NOV 85 STAFF

CITE [redacted]

TO: [redacted]

[redacted]

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by B. Reger, National Security Council

SUBJECT: NSC MISSION

FROM CHARGE

1. AT 2015 HOURS LOCAL TIME, CHARGE MET WITH FOREIGN MINISTER [redacted] AND HANDED OVER NOTE INCORPORTATING LANGUAGE EXPRESSING REGRET [redacted] REACTION WAS MIXTURE OF PUZZLEMENT AND INDIGNATION. HE SAID [redacted] TE WAS INACCURATE BECAUSE [redacted] WAS PREPARED TO RESPO[redacted]TIVELY AT THE MOMENT. ALL IT HAD ASKED FOR WAS A [redacted]PORTING THE INFORMATION MR. MCFARLANE HAD GIVEN [redacted]NG THEIR TELEPHONE CONVERSATION NIGHT OF NOVEMBER 22. H[redacted]HE HAD TOLD MR. MCFARLANE HE NEEDED SUCH A NOTE AND [redacted]NE HAD AGREED.

EXHIBIT
C-16

2. [redacted] SAID THE FIRST NOTE [redacted] CONTAIN ALL THE NECESSARY INFORMATION. [redacted] T NEEDED A REITERATION OF THE HUMANITARIAN PURPO[redacted] THE FACT THAT IT WAS DESIGNED TO RELEASE AMERICANS BE[redacted]D. [redacted]

3. CHARGE MADE STRONG APPEA[redacted]RECONSIDER NEED FOR A WRITTEN STATEMENT OF PURPOSES AND POINTED OUT BOTH POLITICAL SENSITIVITY AND IMPORTANCE OF SUCH AN OPERATION TO THE PRESIDENT [redacted] SAID HE UNDERSTOOD. [redacted] WANTED TO COOPERATE BUT IT HAD TO PROTECT ITSELF POLITICALLY. [redacted] NEVERTHELESS SAID [redacted] WOULD TAKE ANOTHER LOOK AT SITUATION AND WOULD GET IN TOUCH WITH CHARGE IF ITS POSITION CHANGED. IN ANY EVENT HE SAID [redacted] WOULD RESPOND TO THE NOTE AND TAKE ISSUE WITH THE IMPLICATION OF THE NOTE THAT [redacted] WAS NOT TRYING TO BE HELPFUL.

1302

4. [redacted] THEN SPENT ABOUT FIVE MINUTES EXPRESSING HI[illegible] UNHAPPINESS WITH THE "DISASTROUS" WAY THIS OPERATION WAS HANDLED. HE SAID IF [redacted] HAD KNOWN WHO THEY WERE DEALING WITH, THINGS COULD PROBABLY HAVE BEEN WORKEDOUT. BUT ANONYMOUS PEOPLE CLAIMING TO "REPRESENT THE AMERICAN ADMINISTRATION" HAD RAISED ALL SORTS OF UNNECSSARY QUEST[illegible] PARTICULARLY UPSETTING WAS AN EFFORT BY THESE PEOPLE TO [illegible] HIM AND THE PRIME MINISTER AT THE AIRPORT ON THEIR RETU[illegible] BRUSSELS. THEY FAILED TO DO SO BECAUSE THE MINISTERS [redacted] FLYING A MILITARY AIRCRAFT. NEVERTHELESS IN THE PROCESS THEY AROUSED BOTH ATTENTION AND SUSPICION. [redacted] CLOSED THE MEETING BY REITERATING THAT [redacted] WOULD TAKE ANOTHER LOOK AT IT. CHARGE THANKED HIM AND REITERATED PROPOSED FLIGHTS PART OF

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## EXHIBIT C–17

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C/EUR
ACTION

[redacted]

85 9[illegible] ASZ PAGE 001 IN 9103143
TOR: 2[redacted]NOV 85 [redacted]

~~SECRET~~ 23[redacted]NOV 85 STAFF

CITE [redacted]

TO: FL[redacted]

[redacted]

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EXHIBIT
C-17

SUBJECT: NSC REQUEST

REF: DIRECTOR 627461

1. ON RECEIPT REF [redacted] MET FIRST WITH [redacted] AND SUBSEQUENTLY WITH [redacted] IT BEING SATURDAY NIGHT, TRACKING THEM DOWN WAS NOT RAPIDLY ACCOMPLISHED. [redacted] OFFICIALS TOOK PROVIDED INFORMATION AND NOTED A NUM[redacted] INDIVIDUALS WOULD NEED BE CONTACTED IN ORDER SEEK AGREEMENT.[redacted]ERFLIGHTS [redacted]

2. AT APPROXIMATELY 2200 LOCAL [redacted] REPORTED MILITARY AND PRIME MINISTER'S OFFICE WERE IN GEN[redacted]EEMENT BUT DECISION WAS THAT MFA SHOULD BE APPROACHED DIRECTLY. [redacted]

3. [redacted] AT THIS POINT [redacted] DECIDED BRIEF AMBASSADOR DUE NECESSITY DEAL DIRECTLY WITH MFA. AMBASSADOR WAS SUPPORTIVE.

4. [redacted] BRIEFED HIM PER REFS. HE AGREED IN PRINCIPLE TO THE OVERFLIGHT REQUESTS BUT NOTED FOLLOWING WHICH [redacted] WOULD BELIEVE NECESSARY TO THEIR FINAL DECISION:

A. SOME IDEA OF WHAT THE AIRCRAFT WOULD CARRY AS PRESUMABLY THEY WOULD NOT BE EMPTY;

B. OVERFLIGHT OF THREE AIRCRAFT SIMULTANEOUSLY OR CLOSE[redacted]WING WOULD NOT BE ACCEPTABLE. HE SUGGESTED 24 HOUR STAGGERING; [redacted]ED WITH 12 TO 18;

C. [redacted]

// 1303

5. IN OUTLINING HIS CONCERNS [redacted] NOTED [redacted] AS A[redacted] AN[redacted] WISHED ACCEDE TO THE REQUEST BVUT FELT THEY ENTITLED TO M[redacted] THAN SO FAR PROVIDED. [redacted] THEY NEEDED IN ADDITION TO SOME MORE [redacted] FOR TH[redacted] OWN USE, ALSO A COVER STORY SHOULD FLIGHTS CALL ADVERSE[redacted]TION.

3 7C

6. [redacted] COMMENT: IT IS CLEAR FROM CONVERSATIONS WITH [redacted] OFFICIALS [redacted] IS WILLING TO AGREE TO THE NSC PROPOSAL PROVIDED WE ARE A LITTLE MORE FORTHCOMING ABOUT WHAT IS INVOLVED. THEY BELIEVE THEY ARE ENTITLED TO SUCH CO[illegible]ATION.

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## Exhibit C-18

UNCLASSIFIED
SECRET

63

[redacted]

C/EUR
OUTGOING

85 910[illegible] ASZ
PAGE 001
TOT: 24[redacted]NOV 85 DIRECTOR 627896

~~SECRET~~
STAFF 2[redacted] DIRECTOR 627896
TO: FLA[redacted]
[redacted]

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by B. Reger, National Security Council

SUBJECT: NSC [redacted]

REF: DIRECTOR 627787

1. WE ARE RUNNING OUT OF TIME. WE NEED TWO SORTIES IN THE NEXT 48 HOURS OR SO IN ORDER TO PROVE OUR GOOD FAITH. THE HEAVY FIGHTING IN BEIRUT DURING THE LAST FEW DAYS IS DIRECTLY RELATED TO THE EFFORT TO FREE THE HOSTAGES. THIS PRESSURE CANNOT BE SUSTAINED MUCH LONGER UNLESS WE CAN PROVE THAT WE ARE SERIOUS FROM OUR SIDE. WE SIMPLY CANNOT WAIT [redacted] MUST UNDER[redacted] THAT NOT ALL THE CARDS ARE IN OUR HANDS. WE WOULD LIKE TO A[redacted]ATE THEM BUT WE CAN'T. THE HIJACKING OF EGYPTIAN A[redacted] TONIGHT AND THE ALLEDGED MURDER OF 3 OR MORE OF OUR C[redacted] IN THAT EVENT IS INCREASING THE PRESSURE HERE FOR RESULTS[redacted]UESS WHAT I AM SAYING IS THAT WE ARE ASKING OUR ALLIES TO STAND[redacted]D BE COUNTED. THE [redacted]NATION HAS SUFFERED ENOUGH FR[redacted]ORISM AND SHOULD UNDERSTAND WHAT WE ARE TALKING ABOUT.[redacted]

2. WHAT I WANT IS [redacted] CLEAR[redacted]HE NEXT FEW HOURS FOR ONE AIRCRAFT CARRYING OIL INDUSTRY EQU[redacted] TO TRANSIT [redacted] AND ANOTHER TO FOLLOW AT WHATEVER INTE[redacted]S ACCEPTABLE TO [redacted] WE SIMPLY CANNOT WAIT [redacted] IT IS OUR UNDERSTANDING THAT IT IS NOT UNUSUAL FOR COMMERCIAL AIRCRAFT TO USE THE FLIGHT CORRIDOR WE PROPOSE TO UTILIZE [redacted]

3. NO FILE. DECL OADR DRV HUM 4-82. ALL SECRET.>
ORIG/REL C/EUR (CLARRIDGE) SIGNED BY [redacted] CDO PER AUTHORITY OF MR. CLARRIDGE.<

END OF MESSAGE ~~SECRET~~

EXHIBIT
C-18

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## Exhibit C-19

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SECRET

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[redacted]

C/EUR
ACTION

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85 [illegible]   ASZ          PAGE 001              IN 9110344
                     TOR: 25[redacted]NOV 85   [redacted]

~~S E C R E T~~ 25[redacted]NOV 85 STAFF

CITE [illegible]

TO: FL[illegible]
[redacted]
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under provisions of E.O. 12356
by B. Reger, National Security Council

EXHIBIT
C-19

SUBJECT: NSC REQUEST

REF: [redacted]

1. ACTION REQUESTED: FLASH RESPONSE SOONEST TO REF AND FOLLOWING.

2. [redacted] MET WITH AMB [redacted] AT [redacted]OURS. AMBASSADOR WAS ALSO CONVOKED. [redacted] QUITE UPSET ULTIPLE FLIGHT PLANS RECEIVED, FACT FIRST FLIGHT CAME DIRE FROM [redacted] AND DID NOT REQUEST CLEARANCE BEFOREHAND AND CTING STORIES ABOUT PLANE'S CARGO. [redacted] TOLD [redacted] IT INDUSTRY SPARE PARTS, TELEX FROM CARRIER STATED MEDICAL SUP AND THE PILOT TOLD GROUND CONTROLLERS HE WAS CARRYING MI EQUIPMENT.

3. [redacted] CARRIED THE CAN ON THIS SO T TO INVOLVE AMBASSADOR AND DEPARTMENT (DEMARCHE WILL NOT BE ED OTHER THAN IN THIS CHANNEL).

4. BOTTOM LINE IS THAT [redacted] STILL TO ASSIST BUT HAS DEVELOPED A LITTLE CYNICISM ABOUT OUR INTERACTION WITH THEM ON THE MATTER. [redacted] AGREED THAT FURTHER FLIGHTS COULD PROCEED SUBSEQUENT TO [redacted] ALSO INSISTS THAT PLANES FOLLOW NORMAL PROCEDURES, I.E. REQUEST OVERFLIGHT CLEARANCE, AND THAT THEY DO NOT SHUTTLE FROM [redacted] AS NOTED [redacted] PLANES MUST NOT COME DIRECTLY FROM [redacted] THEY SHOULD TURN WEST AND PICK UP OTHER ROUTING. EVEN BETTER, WOULD BE NOT TO UTILIZE [redacted] AT ALL. [redacted]

5. ANOTHER MATTER REQUIRING CLARIFICATION IS THE QUESTION OF AIRCRAFT. [redacted] HAS IMPRESSION FROM PAPERS FILED BY CARRIER THAT SAME PLANE TO BE UTILIZED AND SHUTTLE FROM [redacted] THAT IS [illegible] [redacted] IMPRESSION FROM EARLIER TRAFFIC. PLS CLARIFY.

(1305)

6. THE SITUATION NOTED PARA 2 REF, I.E. SECOND FLIGHT [illegible] THIS MORNING DID NOT EVENTUATE. WE NEED, HOWEVER, TO TRY [illegible] EXPLAIN AWAY THE MULTIPLE FILED FLIGHT PLANS., IS IT PROBA[illegible]AT THEY REPRESENT PLANNING PRIOR TO THE RESTRICTIONS PLACED O[illegible] FLIGHTS BY [redacted] IF SO, WAS THERE A BREAKDOWN IN COMMUNIC[illegible] CHARTER CARRIER DID NOT GET THE MESSAGE? THIS IS A POSSI[illegible] EXPLANATION [redacted] PRESENTED TO [redacted]

A

7C

7. IN ANY EVENT, WE ARE GOING TO HAVE TO TRY AND SA[illegible] THE [redacted] POINTS OUT THAT ATTEMPTS TO CIRCUMVENT THE GROUND RULES (EITHER CONSCIOUSLY OR THROUGH POOR COORDINATION) RUNS RISK OF A LEAK AND BAD PUBLICITY, HARMFUL MORE TO U.S. THAN [redacted]

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C1IN 2180/R

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SECRET

DO

21428

## EXHIBIT C–20

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SECRET

78

[redacted]

C/EUR
OUTGOING

85 9[illegible] ASZ PAGE 001
TOT: 25[redacted]NOV 85 DIRECTOR 628289

S E C R E T
STAFF 2[redacted] DIRECTOR 628289
TO: [illegible]

[redacted]

SUBJECT: NSC REQUEST

REF: A. [redacted]
B.

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by B. Reger, National Security Council

1. YOU MAY ASSURE [redacted] THAT WE WILL NOT USE [redacted] FOR ANY FURTHER FLIGHTS NOR WILL THERE BE ANY SORTIES UNTIL [redacted] WHAT I NEED TO KNOW IS CAN WE PROCEED WITH A FLIGHT TRANSITTING [illegible] LATE EVENING 27 NOVEMBER/EARLY MORNING 28 NOVEMBER OR [illegible] WE WAIT UNTIL THE EVENING OF 28 NOVEMBER.

EXHIBIT
C-20

2. PLEASE TELL [redacted] THAT WE [illegible]ERELY REGRET THE ENORMOUS AMOUNT OF CONFUSION SURROUND[illegible] AST NIGHT'S SORTIE. YOU ARE INDEED CORRECT THAT PLANS BEI[illegible]E AT POINT OF THE AIRCRAFT'S ORIGIN WERE OVERTAKEN BY RE[illegible]CTIONS PLACED ON THE FLIGHTS BY [redacted] OUR PROBLEM IS [illegible] ARE ONLY BROKERS IN THIS MATTER AND DO NOT HAVE DIRECT RA[illegible]MMUNICATIONS WITH THOSE RESPONSIBLE FOR ORIGINATING THE[illegible]TS OR THE FLIGHT CREWS. THIS IS BASICALLY A COMMERC[illegible]SACTION AND INVOLVES AIR CHARTER COMPANIES OVER WHICH WE HA[illegible] DIRECT CONTROL. MOREOVER, THERE ARE NO AGENCY PERSONN[illegible] THE GROUND AND IN CONTACT WITH THE INDIVIDUALS ORIGINATING THE FLIGHTS. THUS, OUR COMMUNICATIONS WITH THE LATTER ARE SLOW AND TENUOUS AT BEST. THIS WHOLE OPERATION HAD TO BE PUT TOGETHER IN VERY SHORT ORDER AND NOW THAT WE HAVE A COUPLE OF DAYS TO PLAN THE NEXT SORTIE, I THINK WE CAN ASSURE YOU AND YOU IN TURN CAN ASSURE [redacted] THAT THE NEXT SORTIES WILL GO MORE SMOOTHLY AND IN LINE WITH [redacted] REQUIREMENTS.

1306

3. EQUIPMENT ON BOARD IS INDEED SPARES FOR THE OIL INDUSTRY BUT THAT IS NOT TO SAY THAT IT MAY NOT ALSO HAVE SOME SPECIALIZED MEDICAL EQUIPMENT OR SUPPLIES MIXED IN WITH IT. [illegible] SIMPLY CANNOT UNDERSTAND WHY THE PILOT TOLD GROUND CONTROLLERS HE WAS CARRYING MILITARY EQUIPMENT, BUT PERHAPS THAT IS WHAT [illegible] THOUGHT HE WAS TRANSPORTING.

4. I AM VERY INTERESTED IN THE POSSIBILITY OF USING [illegible] IN [redacted] FOR AT LEAST ONE OR MORE OF THE NEXT [illegible] SORTIES. CAN [redacted] ASSIST US IN ARRANGING FOR THE USE [illegible] THIS FIELD?

7C

5. ALL HERE VERY MUCH APPRECIATE YOUR EFFORTS OVE[illegible] PAST WEEKEND ON THIS VERY IMPORTANT OPERATION. YOU MAY [illegible] [redacted] THAT THEIR COOPERATION IS NOT LOST ON HIGH L[illegible] AUTHORITIES HERE. FINALLY, I ASSUME FROM REF B THAT OUR AMBASSADOR IS FULLY WITTING OF THIS OPERATION. PLEASE CONFIRM SO THAT I MAY ADD HIM TO THE BIGOT LIST AND INFORM THE NSC. BEST REGARDS AND THANKS.

5445

CIIN 2184/[illegible]

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SECRET

## EXHIBIT C-21

UNCLASSIFIED SECRET

89

C/EUR
OUTGOING

[redacted]

85 [redacted] ASO PAGE 001
TOT: 25[redacted]NOV 85 DIRECTOR 628959

SECRET
STAFF [redacted] DIRECTOR 628959
TO: [redacted]

who for ?
DAC [redacted]
file

SUBJECT: [redacted]

**EXHIBIT**
C-21

1. NOW THAT I HAVE A MOMENT'S RESPITE FROM SENDING AND RECEIVING FLASH TRAFFIC, LET ME EXPLAIN SOME OF THE FACTORS INVOLVED IN THIS OPERATION WHICH MAY HELP YOU UNDERSTAND THE RATHER BIZARRE MANNER IN WHICH IT IS BEING CONDUCTED. WE ARE ONLY THE BROKERS IN THIS MATTER AND DO NOT HAVE DIRECT RAPID COMMUNICATIONS WITH THOSE RESPONSIBLE FOR ORIGINATING THE FLIGHTS OR THE FLIGHT CREWS. THIS IS BASICALLY A COMMERCIAL TRANSACTION AND INVOLVES AIR CHARTER COMPANIES OVER WHICH WE HAVE NO DIRECT CONTROL. MOREOVER, TH[illegible]E NO AGENCY PERSONNEL ON THE GROUND IN CONTACT W[illegible] INDIVIDUALS ORIGINATING THE FLIGHTS; I.E. [redacted] IS NOT INVOLVED NOR, AS I MENTIONED BEFORE, ARE [redacted] THE ORIGINATORS, THEREFORE, ARE NOT PROFE[illegible]LS IN OUR LINE OF WORK AND COPING WITH THEIR WAYS OF DO[illegible]SINESS AND MESHING THEM WITH OURS IS MUCH OF OUR PROBLEM[illegible]ER TODAY THERE WILL BE AN INDIVIDUAL ARRIVING IN TEL AVIV[illegible]T LEAST HAS A MODICUM OF UNDERSTANDING HOW THIS WHO[illegible]NG SHOULD WORK AND BY TOMORROW MORNING, THERE WILL BE A[illegible] INDIVIDUAL THERE [redacted]

?

2. ONE OF THE KEY ELEMENTS FOR [redacted] IS THE REQUIREMENT THAT THEY HAVE AT LEAST A GOOD APPROXIMATION WHEN THE AIRCRAFT IS GOING TO ENTER THEIR AIRSPACE EASTBOUND. THE FLIGHT PLAN FILED BY THE AIRCRAFT SHOULD PROVIDE THIS BUT THERE IS A CHANCE IT WILL NOT REACH [redacted] IN TIME. IF THIS WERE A NORMAL COMMERCIAL FLIGHT, IT PROBABLY WOULDN'T MAKE MUCH DIFFERENCE TO THEM BUT UNDER THE CIRCUMSTANCES IT DOES. THEREFORE, I THINK THAT ONE OF THE MOST USEFUL THINGS YOUR OFFICER AT [redacted] CAN DO IS TO PHONE THIS DATA TO YOU WHEN IT IS AVAILABLE AND YOU CAN PROVIDE IT TO [redacted] BY FLASH PRECEDENCE. THIS SHOULD RELIEVE SOME OF THE IRRITATION ON [redacted] END.

1307

3. THERE WILL PROBABLY BE TWO CHARTER COMPANIES INVOL[illegible] IN THIS AIRLIFT. BESIDES [redacted] [redacted] WILL ALSO PROBABLY BE INVOLVED. THE LATTER MAY BE [redacted] PROPRIETORY, BUT I AM NOT SURE. HOPE THE AB[illegible] HELPS YOU UNDERSTAND WHAT WE ARE WORKING WITH. DON'T HESIT[illegible] TO ASK ANY OTHER QUESTIONS THAT MAY ASSIST YOU. FINAL THO[illegible] THE MATERIAL BEING TRANSPORTED IS SPARES FOR THE OIL INDU[illegible] AND I AM ATTEMPTING TO ENSURE THAT IT IS MANIFESTED AS SU[illegible] RATHER THAN UNDER THE RUBRIC OF "MACHINERY" OR "MEDICAL [illegible] STORES." BY DOING SO, WE SEEM TO KEEP GOVERNMENTS FEEL[illegible]RM AND FUZZY.

7C

4. NO FILE. DECL OADR DRV HUM 4-82. ALL SECRET.>
ORIG: C/EUR (CLARRIDGE); REL: C/EUR (CLARRIDGE). CL BY DO

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## Exhibit C-22

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93

[redacted]

EXHIBIT C-22

C/EUR
INCOMING

85 9122[redacted] ASO PAGE 001 IN 9122501
TOR: 2[redacted] NOV 85 [redacted]

~~S E C~~ [redacted]26[redacted] NOV 85 STAFF

CITE [redacted]

TO: IMME[redacted]

[redacted]

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by B. Reger, National Security Council

SUBJECT: ~~DCM~~-MEETING WITH FOREIGN MINISTRY

FROM DCM

1. DCM [redacted] CALLED TO FOREIGN MINISTRY NOVEMBER 25 AND GIVEN TWO NOTES [redacted] TRANSLATIONS PROVIDED IN PARAS 8 AND 9. NOTE ACTION REQUESTED PARA [redacted]

2. [redacted] SAID ESSENTIAL POINT [redacted] THAT THE PROPOSED OPERATION WAS SO DIRECTLY IN CONFLICT WITH [redacted] U.S. POLICY AND [redacted] POLICY THAT THE GOVERNMENT NEED[redacted] WRITTEN ASSURANCES THAT THE OPERATION WAS FOR HUMANITARIAN [redacted]ONS AND WAS DESIGNED TO GAIN THE RELEASE OF AMERICAN CITIZENS. [redacted]AID HE WANTED TO EMPASIZE THAT WITH THESE ASSURANCES [redacted] HAD [redacted] PREPARED TO APPROVE THE OPERATION. IT REMAINED PREPARED TO DO [redacted]

3. THE DCM SAID THAT WHILE THE DES[redacted] FOR WRITTEN ASSURANCES WAS UNDERSTANDABLE, [redacted] SHOULD UNDERSTAND THAT THE ACTIONS OF [redacted] ON NO[redacted]R 22 AND 23 GAVE THE IMPRESSION TO SOME THAT [redacted] WAS ST[redacted]G, ESPECIALLY SINCE MR. MCFARLANE HAD THE DISTINCT IMPRESSION THAT THE FOREIGN MINISTER HAD GIVEN HIM A GREEN LIGHT ON THE NIGHT OF THE 22ND. THE SUBSEQUENT INSISTENCE ON A NOTE HAD BEEN DISQUIETING. THE DEMAND FOR A SECOND NOTE CONVINCED THOSE MANAGING THE OPERATION THAT [redacted] DUCTED FOR THE HUMANITARIAN PURPOSE OF ASSISTING AMERICAN CITIZENS IN TROUBLE. [redacted] SAID HE COULD NOT MAKE A JUDGEMENT. MOREOVER, THE FOREIGN MINISTER WAS IN BRUSSELS.

1308

5. DCM THEN NOTED THAT AMBASSADOR [redacted] WAS SCHEDULED TO CALL ON THE PRIME MINISTER AFTERNOON OF NOVEMBER 26. [redacted] SAID THAT IF U.S. STILL INTERESTED, THE MEETING WITH THE PRIME MINISTER WOULD PROVIDE EXCELLENT OPPORTUNITY TO GET PM'S AGREE[redacted]

6. AMBASSADOR'S CALL IS SET FOR 4:30PM LOCAL TIME. IF NSC [redacted] NOT FOUND ALTERNATIVE MEANS AND IF THERE IS STILL INTEREST IN [redacted] COOPERATION, WE BELIEVE MEETING OFFERS EXCELLENT OPPO[redacted] TO GET IT.

7. PLEASE ADVISE US AT OPENING OF BUSINESS NOV 26 IF T[redacted]S AN[redacted] INTEREST IN REVIVING [redacted] COOPERATION AND IF SO ON W[redacted]

8. NOTE 4952: "THE MINISTRY OF FOREIGN AFFAIRS PRESEN[redacted] COMPLIMENTS TO THE EMBASSY OF THE UNITED STATES OF AMERI[redacted] IN REFERENCE TO THE EMBASSY'S NOTES [redacted] OF NOVEMBE[redacted]ND TO OTHER COMMUNICATIONS IN OTHER CHANNELS ON THE SAME SUBJECT, CANNOT HELP BUT BE AMAZED BY THE MANNER IN WHICH THE MATTER WAS CONDUCTED BY NORTH AMERICAN AUTHORITIES.

[illegible]

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85 812250[redacted]350 PAGE 003 IN 8122501
TOR: 2[redacted] NOV 85 [redacted]

[redacted] CHARGE OF THE USA WAS RECEIVED BY [redacted] FOREIGN MINISTRY WHO WAS SUPPOSED TO RECEIVE

FRO[redacted]
THE [redacted]ED NOTE.

[redacted]ALLY CONTRARY TO WHAT WAS ANTICIPATED, AND TO THE GREAT SURPR[redacted] OF FOREIGN AFFAIRS, WHO IMMEDIATELY RECE[redacted]NOTE, TOTALLY DIFFERENT FROM WHAT WAS EXPECTED EXPRE[redacted] THE GOVERNMENT [redacted] WAS UNABLE TO FUFILL[redacted]HE GOVERNMENT OF THE UNITED STATES FOR THE HUMANIT[redacted] REFERRED TO IN EMBASSY NOTE NO. [redacted] WAS PRESENTED [redacted] THE MIDDLE OF FULL SCALE EFFORTS DESIGNED TO PROVIDE THE ALREADY REFERRED TO "PROMPT AND URGENT" SOLUTION.

"IN THIS REGARD IT IS NECESSARY TO RECALL AND TO EMPHASIZE CLEARLY AND SURELY THAT IT HAD BEEN CLEARLY AGREED THAT A PROMPT AND URGENT RESPONSE WOULD BE GIVEN ON THE BASIS OF AN EMBASSY NOTE MENTIONING THE REAONS FOR THE MISSION. SUCH A NOTE WAS NOT PROVIDED AS EXPECTED.

"THE MINISTRY OF FOREIGN AFFAIRS [redacted] THE OPPORTUNITY TO RENEW TO THE EMBASSY OF THE USA THE ASSURAN[redacted] ITS HIGHEST CONSIDERATION."

10. NO FILE. DECL OADR DRV HUM [redacted]LL ~~SECRET~~
END OF MESSAGE

1310

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C11N 2199/ UNCLASSIFIED ~~SECRET~~

## EXHIBIT C-23

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SECRET

104

[redacted]

C/EUR
OUTGOING

OUTGOING MESSAGE

```
85 913[redacted] ASO          PAGE 001
                          TOT: 27[redacted]NOV 85        DIRECTOR 631110

S E [redacted]
STAF[redacted]DIRECTOR 631110
TO: I[redacted]

NIACT [redacted]
```

EXHIBIT
C-23

SUBJECT: NSC MISSION

REFS: A. [redacted]
B. DIRECTOR 631009

1. NO FLIGHT PLANNED FOR 27 OR 28 NOVEMBER. AS MENTIONED IN REF B, OPERATION IS STILL ON BUT WE HAVE ENCOUNTERED DELAYS.

2. REF B SUBJECT LINE IN ERROR[redacted]HOULD HAVE BEEN NSC MISSION. SORRY FOR THE CONFUSION.

3. NO FILE. DECL OADR DRV HUM [redacted] ALL SECRET.>
ORIG: C/EUR (CLARRIDGE); REL: CDO [redacted] DIRECTION C/EUR).<

END OF MESSAGE

1311

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SECRET

DO 21455

## Exhibit C-24

UNCLASSIFIED
SECRET

19

C/EUR
OUTGOING

[redacted]

85 [illegible] ASO PAGE 001
TOT: 27[redacted]NOV 85 DIRECTOR 631684

S[illegible]
STAFF 27[redacted]DIRECTOR 631684
TO: IMMEDIATE [redacted]

NIACT [redacted]

EXHIBIT
C-24

SUBJECT: NSC OPERATION

REF: A. [redacted]
B.

1. AS I SAID IN PREVIOUS MESSAGE, THIS OPERATION IS STILL ON. HOWEVER, AT THIS POINT I DO NOT THINK THAT WE WILL BE READY FOR OUR SECOND SORTIE UNTIL PROBABLY EARLY NEXT WEEK. FYIO, WHATEVER WAS SUPPOSED TO HAPP[redacted]R THE FIRST SORTIE DID NOT HAPPEN AND WE ARE REGROUPING[redacted]

2. FOR [redacted] I AM RELAYING[redacted] TO [redacted] FOR YOUR COMMENTS. PARA 2 IS AN EXCELLENT S[redacted]ON BUT IT MAY NOT BE POSSIBLE FOR [redacted] TO ACCEPT IT. [redacted] DISCUSSES THIS PROPOSAL WITH [redacted]. HE SHOU[redacted] SO IN PRINCIPLE AND NOT MENTION [redacted] AT THIS TIME.

3. FOR [redacted] APPRECIATE IN[redacted]ON ON [redacted] AIRFIELD [redacted] WE WILL CONSIDE[redacted]AS AN ALTERNATE TO [redacted] AND WILL GIVE YOU SOME LEA[redacted]F WE DECIDE TO USE IT.

4. AGAIN, MANY THANKS TO YOU BOTH FOR YOUR EFFORTS. WILL BE BACK IN TOUCH.

5. AS I DO NOT KNOW THE STATE OF ALERT THE AUTHORITIES IN YOUR COUNTRY MAY BE CONCERNING THIS OPERATION, I AM SENDING THIS NIACT SO THAT YOU CAN TELL THEM IF NECESSARY THAT WE ARE STANDING DOWN ON FLIGHTS UNTIL EARLY NEXT WEEK.

1312

6. NO FILE. DECL OADR DRV HUM 4-82. ALL SECRET.>
ORIG: C/EUR (CLARRIDGE); REL: C/EUR (CLARRIDGE). CL BY
[redacted]

END OF MESSAGE ~~SECRET~~

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A

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C11N 2213/A

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SECRET

139

## EXHIBIT C–25

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111

C/EUR
OUTGOING

[redacted]

85 9192600 ASR PAGE 001
TOT: 03[redacted] DEC 85 DIRECTOR 638740

S E [illegible]
STAFF 0[illegible] DIRECTOR 638740
TO: [redacted]

EXHIBIT
C-25

SUBJECT: NSC OPERATION -- UPDATE

REF: DIRECTOR 631684

1. WE ARE STILL REGROUPING. KEY MEETING OF PRINCIPALS WILL TAKE PLACE THIS WEEKEND WITH EARLIEST POSSIBLE AIRCRAFT DEPLOYMENTS SOMETIME MID TO LATE WEEK OF 8 DECEMBER.

2. NO FILE. DECL OADR DRV HUM 4-82. ALL SECRET.>
ORIG: C/EUR (CLARRIDGE); REL: C/EUR (CLARRIDGE). CL BY
[redacted]

END OF MESSAGE

OUTGOING MESSAGE

1313

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C11N 2216/A

DO 21462

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111

## Exhibit C–26

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11*

C/EUR
OUTGOING

[redacted]

OUTGOING MESSAGE

85 9[illegible] ASO PAGE 001
TOT: 1[redacted]DEC 85 DIRECTOR 648702

S E[illegible]
STAFF[illegible] DIRECTOR [illegible]8702
TO: [redacted]

EXHIBIT
C-26

SUBJECT: NSC [redacted]

REF: A. [redacted]
B. DIRECTOR 638740

1. SORRY TO KEEP YOU WAITING, BUT AS LATE AS LAST NIGHT THE NEGOTIATING WAS STILL GOING ON. WE HAVE JUST RECEIVED WORD NOW THAT THE DEAL IS APPARENTLY ALL OFF. DON'T KNOW WHY YET OR WHETHER THERE IS A POSSIBILITY THAT I[redacted] REVIVE IN FUTURE. WILL ADVISE AS WE CAN, BUT FOR NOW IT LIKE WE ARE STANDING DOWN.

2. NO FILE. DECL OADR DRV HUM ALL ~~SECRET~~.>
ORIG: AC/EUR [redacted]; AUTH: AC/EU[redacted] REL: AC/EUR
[redacted]. CL B[redacted]

END OF MESSAGE

1314

A

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## Exhibit C-27

~~SECRET~~ UNCLASSIFIED

114

C/EUR
INCOMING

[redacted]

86[redacted] PAGE 001 IN 8667909
TOR: 23[redacted]JAN 86 [redacted]

S[redacted]E T 23[redacted]JAN86 STAFF

CI[redacted]

TO: [redacted]

C/Eur ✓

EXHIBIT
C-27

SUBJECT: NSC OPS IN[redacted]

1. [redacted] POSSIBLE NSC OPS IN [redacted] THE USG MAY SOON BE APPROAC[redacted] PRIME MINISTER[redacted] AGAIN AS R[redacted] A PLAN TO FREE ITS HOSTAGES IN BEIRUT. [redacted]

2. NEEDLESS TO SAY, IF NSC IS AC[redacted]UNTING SIMILAR OP TRANSITING [redacted] STRONGLY [redacted]MENDS THAT [redacted] PERMISSION FOR TRANSIT BE [redacted]ED VIA AMBASSADOR TO FOREIGN MINISTER. THIS SHOULD GUARANTEE DISCREET APPROVAL. INVOLVEMENT OF NONOFFICIAL INTERMEDIARIES COULD RESULT IN STRONG [redacted] NEGATIVE REACTION. ABOVE HAS NOT BEEN DISCUSSED WITH AMBASSADOR.

1309

3. FILE: DEFER. DECL OADR DRV HUM 4-82. ALL ~~SECRET~~.

END OF MESSAGE ~~SECRET~~

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## EXHIBIT CJC–1

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CJC 1-CJC21

CJC1-CJC21

75-543

✓ McF.
✓ Schultz
✓ Sporkin

✓ Ollie North
Poin
Cap
V-P
Pres.
Regan
Casey

Any legal problems

Are there other facts that would raise em problems.

Chair. I have reviewed the chronology and made additions and amendments. One other question: On Nov. 20 at 7:30 you say that Thompson conveyed information that McFarlane stood by his account. I thought Thompson said that Poindexter was trying to call McFarlane to confirm his account. At 11:00 you called Poindexter who said he was not able to call McFarlane.

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EXHIBIT
CJC-1

①

CJC-1

UNCLASSIFIED

1 7695 Chronology of Investigation (per CJC memory)

Nov 7 Friday - at Mgt. Meeting
Meese mentions need for legal work
✓ in connection w/ Iran.

Nov 12(?) Meets w/ Poin, Thompson -- see Finding

Nov 13 (?)✓ Pres. address to Nation; CJC Memo to AG.

Nov. 17 (?) Receive draft chronology from NSC -(Thompson).

Nov 19 Pres. Press Conference

Nov. 20 1:30 – 3:00 meeting in Poin office w/ Casey, North, Gates, A.G., Thompson, CJC re preparing for Casey testimony + Poin informal briefing.

± 3:30 – 5:45 - meet w/ Wallison, Thompson, learn from Abe that some inaccuracies in NSC chronology + ∴ in Casey proposed testimony

± 6:30 - 7:00 phone conversation w/ Abe -- advises me of existence of notes of Schultz - McF. discussion on Nov 18, 85 re "Hawks."

± 7:30 - 8:30 Paul Thompson advised of discrepancy + later repts that N. & McF. stick by their acct.

± 10:30 – 11:00 Secure phone call to AG in West Point re what I had learned.
A.G. decides to come back; instructs me to contact CIA / Casey + delete inaccurate statements from testimony.

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11:00 –ish Call to Poindexter who said he had not been able to talk to McFarlane

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11:00 – CJC calls Dave Doherty + advises to modify / delete "[illegible] No one in U.S.G." sentence. Doherty already had.

Nov 21

8:00 – 8:30 CJC meet w/ Casey, Doherty re discrepancy. Review testimony re Nov. '85 event and make some minor revisions.

I 9:00 – 10:00 Meet w/ A.G., WBR, Arnie (?), John Richardson.

11:30 AG meets w/ Pres., Regan

12:30 lunch w/ A.G., John R., Brad, Bolton (?)

3:30 – 5:45 Meet w/ McFarlane, A.G.

Nov. 22 [redacted]

I 8:00 – 9:00 Meet w/ A.G., George Schultz, Chas. Hill at State Dept.

[illegible]

10:00 – 10:30 Meet AG, Brad, John R., in AG. office.

[illegible] Lunch at Ebbit Grill – AG, CJC, Brad, J.R. -- Brad informs of Contra memo.

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1 7697

2:00 - 3:30
≈ ~~3:00 - 4:30~~ Meet w/ A.G., Spokin,

≈ 4:00 phone call w/ Dave Doherty to set up meetings w/ Ed. Deitel, and 2 guys from Ops Div.

6:00-7:30 Meet w/ Dave Doherty, Ed Dietel, George Jameson, [redacted] John McGinnis

7:30-8:30 Meet w/ Dave Doherty, Jameson, McGinnis, + [redacted]

8:30-8:45 Telephone conference w/ [redacted] + George Jameson.

Nov. 23, 1986

9:00 ~~8:45~~ 10:45 -~~10:30~~ Meeting w/ Chas. Allen, George Jameson, Dave Doherty, John McGinnis

9:45-1:30 CSC Meeting with Casey, Chas. Allen, Dave Doherty, with George Jameson

9:30 - 11:00 John McG. interviews Dewey Clarridge, (I ask a few questions).

12:30-1:30 Meet w/ AG, Brad, J.R.

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1 1090

~~1~~ 2:00 - 5:45 Meet w North, A.G., Brad, J.R.

6:00 - 6:45 Meet w/ AG, Brad, J.R.

Mon. Nov. 24.

9:00 - 10:15 - Meet w/ Abe, Chas. Cooper.

10:30 - 12:30 - AG meets w/ McF.

11:30 - 11:30 - AG meets w/ Pres. - Regan, Poindexter, Prin; + V.P.

2:30 - 3:15 - CJC + Brad meet w/ Tom [illegible].

2:00 - - NSPG meeting

Evening - discuss with ~~John~~ McG. possible illegalities and crim liab. re Nicaragua [redacted] revelation.

This ? occurred on Tues. → Yes, on Tuesday 3 pm

3:30 - 5:30 - Meet w/ Weld, Richards, McG., Alito potential criminal liab.

5:45 - 7:00 - Meet w/ A.G., Trott, Weld, Cribb, Brad, J.R.

Evening - phone conversation w/ Susan Crawford re valuation of TOWs, etc. (also re 1508 TOWs in stock). This may have happened on Tues

Tues. Nov. 25

7:45 CJC + J.R. accompany Meese to W.H. meet w/ Don Regan, Peter Wallison, Dennis Thomas etc. Review Bd is proposed by Regan.

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8:15 - ~~[illegible]~~ 9:30 CJC meets w/ Wallison + Thomas to d

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presidential statement.

9:30 - 10:30 Meeting w/ Pat Buchanan, Speakes, Thomas, Wallison, CWR, J.R., etc. to review presidential statement.

11:30 - Pres. makes statement.
11:35-12:45 - A.G. holds press briefing.

1:30 - 2:30 Meet w/ Cribb, Brad, J.R., Bolton (lunched in Cribb's office) re status.

2:30 - 3:30 Meet w/ AG., Brad, Trott, Webster, J.R., Cribb, Burns, Bolton(?). AG. asks for examination of possible crim. liab. and orders that NSC docs be frozen. Directs Burns to instruct Wallison

3:30 - 7:00 See Monday

7:00 - 8:30 Meet w/ Brad, John McG., Susan Crawford and various people from DOD/Army re Economy Act transfers to CIA & method of valuation.

[At some point Tues. evening -- I think may have been Mon. -- Casey called me to ask if I have run across "Lakeside Resources" in our inquiry. I said I vaguely recalled some such reference

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Wed. Nov. 26 UNCLASSIFIED J 7700

[redacted]

3:30 - 5:35 Meeting with investigative team.

5:50 - 7:00 Conference call (secure) with John McMahon, George Jameson, Ed Dietel, John McG.

7:45 - 10:30 Interviewed by 2 FBI agents; provided copies of NSC chronology (all versions); edited version of insert for Casey testimony re Nov. Hawk episode.

Friday Nov. 28
± 9:00 p.m. FBI agent calls re other docs -- in safe -- advised to call & Kathy Harris Sat a.m.

Sat. a.m.
FBI got docs in safe.

Monday
5:00 p.m. - Met with FBI for status rept.; gave notes after meeting.

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## EXHIBIT CJC-2

U.S. Department of Justice

Office of Legal Counsel

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Office of the
Assistant Attorney General

Washington, D.C. 20530

EXHIBIT
CJC-2

MEMORANDUM FOR THE ATTORNEY GENERAL

Re: Statutes Relevant to Recent Actions with respect to Iran

The statutes most directly bearing on the legality of the recent missions to and transactions with Iran are the following: the Hughes-Ryan Amendment, the congressional reporting provisions of the National Security Act, and the Arms Export Control Act. Based on our understanding of the facts, we believe that the recent actions with respect to Iran, including the transfer of arms to Iran by the CIA, do not violate the Hughes-Ryan Amendment or the National Security Act. Moreover, under the the executive branch's prior interpretation of the Arms Export Control Act, this Act is inapplicable to the arms transfers to Iran. (S)

Hughes-Ryan Amendment. The Hughes-Ryan Amendment to the legislation authorizing the operations of the Central Intelligence Agency was passed in 1974 in response to revelations of covert CIA operations. The Amendment, as amended in 1980, provides (22 U.S.C. 2422):

> No funds appropriated under the authority of this chapter or any other Act may be expended on behalf of the Central Intelligence Agency for operations in foreign countries other than activities intended solely for obtaining necessary intelligence, unless and until the President finds that each such operation is important to the national security of the United States. Each such operation shall be considered a significant intelligence activity for the purpose of section 413 of title 50.

Because the President made the appropriate finding, the Hughes-Ryan Amendment does not prohibit the use of CIA funds for the transfer of arms to Iran. (S)

Congressional Oversight Provisions of the National Security Act. In 1980 the National Security Act of 1947 was amended to provide for congressional oversight of "significant anticipated intelligence activities." This section now provides (section 501 of the National Security Act, 50 U.S.C. 413(a)) (emphasis added):

[redacted] Released on 23 June 1987
under provisions of E.O. 12356
By B. Reger, National Security Council

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> To the extent consistent with all applicable authorities and duties, including those conferred by the Constitution upon the executive and legislative branches of the Government, and to the extent consistent with due regard for the protection from unauthorized disclosure of classified information and information relating to intelligence sources and methods, the Director of Central Intelligence and the heads of all departments, agencies, and other entities of the United States involved in intelligence activities shall --
>
> (1) keep the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives . . . fully and currently informed of all intelligence activities which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States, including any significant anticipated intelligence activity, except that (A) the foregoing provision shall not require approval of the intelligence committees as a condition precedent to the initiation of any such anticipated intelligence activity, and (B) if the President determines it is essential to limit prior notice to meet extraordinary circumstances affecting vital interests of the United States, such notice shall be limited to the chairman and ranking minority members of the intelligence committees, and the majority and minority leaders of the Senate . . . .

Section 501(b) of the National Security Act applies to those situations in which the President fails to give prior notice under section 501(a) :

> The President shall fully inform the intelligence committees in a timely fashion of intelligence operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, for which prior notice was not given under subsection (a) of this section and shall provide a statement of the reasons for not giving prior notice.

Section 501 of the National Security Act does not contemplate that prior notice of "intelligence activities" will be given in all instances. Subsection (b) of section 413 makes specific provision for situations in which "prior notice was not given under subsection (a)." Because subsection (a) includes situations in which the President provides notice to the full intelligence committees under subsection (a)(1)(A) and situations in which he provides prior notice restricted to designated members of Congress, including the chairmen and ranking members of the House and Senate intelligence committees under subsection (a)(1)(B), it seems clear that subsection (b) contemplates situations in which no prior notice has been given under either of these provisions. This interpretation is confirmed by a colloquy between Senators Javits and Huddleston, who were on the committee that drafted this provision. Senator Javits asked: "If information has been withheld from *both the select committee and the leadership group (as section 501(b) envisages)*, can it be withheld on any grounds other than 'independent constitutional authority' and, if so, on what grounds?" Senator Huddleston answered: "*Section 501(b) recognizes that the President may assert constitutional authority to withhold prior notice of covert operations*, but would not be able to claim identical authority to withhold timely notice under section 501(b). A claim of constitutional authority is the sole grounds that may be asserted for withholding prior notice of a covert operation." 126 Cong. Rec. 17693 (June 28, 1980) (emphasis added).

Moreover, the preamble to the provision makes clear that disclosure is required only when such disclosure is consistent with the President's constitutional duties. Accordingly, the President is not required to make disclosures when he is acting in a situation in which he is employing his inherent foreign affairs powers. As the President made clear in his televised address to the Nation this evening, the primary purpose of the recent actions with respect to Iran was diplomatic. The "intelligence activities" involved in the Iran matters consisted of, *inter alia*, negotiations with a foreign sovereign, of which the arms transfers were an integral part, and attempts to gain information relating to Americans captured abroad. These intelligence matters were inextricably intertwined with and essential to the President's foreign policy goals. We therefore believe that the President was acting at the height of his inherent power in foreign affairs. In *United States* v. *Curtiss-Wright*, 299 U.S. 304 (1936), the Court made clear that the President has plenary power over negotiations with foreign powers:

> In this vast external realm [of foreign affairs] with its important, complicated, delicate and manifold problems, the President alone has the power to speak or listen as a representative of the nation. He makes treaties with the advice and consent of the Senate; but he alone negotiates. Into the field of negotiation the Senate cannot intrude; and Congress itself is powerless to invade it. As Marshall said in his great argument of March 7, 1800, in the House of Representatives, "The President is the sole organ of the nation in its external relations, and its sole representative with foreign nations.

The Court in *Curtiss-Wright* also quoted approvingly George Washington's message to Congress in which he refused to give the

House of Representatives documents relating to negotiations over the Jay Treaty, characterizing the refusal as one "the wisdom of which was recognized by the House itself and has never since been doubted." 299 U.S. at 320.[1] Accordingly, given the strength of the argument that Congress cannot require the President to make disclosures concerning negotiations with foreign governments even after they are completed, the argument that he cannot be forced to make disclosures during the pendency of sensitive negotiations is particularly compelling. (S)

Second, we believe that a good argument can be made that section 501 of the National Security Act does not require disclosure of information in particularly sensitive circumstances, even if the President is not acting in a manner that implicates his inherent constitutional powers in foreign affairs. The preamble to Section 501 qualifies the requirements of the provision not only by reference to constitutional authorities, but also by reference to the need to keep certain national security information secret. President Carter, in his signing statement for the Intelligence Authorization Act of 1981, stated the understanding on the basis of which the bill received executive approval (emphasis added):

> It is noteworthy that in capturing the current practice and relationship, the legislation preserves an important measure of flexibility for the President and the executive branch. It does so not only by *recognizing that there are circumstances in which sensitive information may have to be shared only with a limited number of executive branch officials*, even though the congressional oversight committees are authorized recipients of classified information. Circumstances of this nature have been rare in the past: I would expect them to be rare in the future.

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[1] As quoted in *Curtiss-Wright*, 299 U.S. 320-321, President Washington said:

> The nature of foreign negotiations requires caution, and their success must often depend on secrecy: and even when brought to conclusion a full disclosure of all the measures, demands, or eventual concessions which may have been proposed or contemplated would be extremely impolitic; for this might have a pernicious influence on future negotiations, or produce immediate inconveniences, perhaps danger and mischief, in relation to other powers.

President Carter seems to have contemplated that there would be instances in which the President would restrict information even when there was no constitutional basis for doing so. Cutting against this interpretation of section 501, however, is the previously quoted colloquy between Senators Javits and Huddleston in which Senator Huddleston suggests that "[a] claim of constitutional authority is the sole grounds that may be asserted for withholding prior notice of a covert operation." 126 Cong. Rec. 17693 (1980). Because we believe that the President was acting in a manner that implicates his inherent powers, we need not now decide the question of whether the National Security Act permits the President to withhold prior notice on other than a constitutional basis.

Arms Export Control Act. The Arms Export Control Act places a number of restrictions on the export of arms executed under its authority, including:

1) Sales must be made only to countries with respect to which the President has found that such sales will strengthen the security of the United States and promote world peace ( 22 U.S.C. 2753(a)(1));

2) The articles must be sold only for use for legitimate purposes and the recipient country must agree to use the arms only for legitimate (e.g. self-defense) purposes (22 U.S.C. 2753 (a)(2));

3) A report of the proposed sale of major defense equipment valued at $14 million or more must be submitted to Congress (22 U.S.C. 2776(b)).

4) As of August 26, 1986, no arms may be exported to countries that the Secretary of State has certified as supporting terrorism. See Section 509 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986. (The Secretary of State has certified that Iran supports terrorism).

The Department of Justice, however, has previously concurred in the conclusion of the Department of State that the Arms Export Control Act is not the exclusive authority for transferring arms to foreign countries and that arms may be transferred outside the context of that statute. See Letter from William French Smith to William J. Casey (Oct. 5, 1981). In the case considered by Attorney General Smith the government relied on the CIA's authority under Section 102(d) of the National Security Act in transferring arms to a foreign country for the primary purpose of achieving certain intelligence objectives. Section 102(d) provides that it shall be the duty of CIA, under NSC direction, to perform services of common concern for the benefit of existing intelligence agencies and to perform "such other functions and duties relating to intelligence affecting the national security as the National Security Council may from time to time direct."[2] We understand that the arms transfer to Iran had an intelligence objective among its objectives. Accordingly, under prior precedent, section 102(d) of the National Security Act furnishes authority for the President's action, and the restrictions of the Arms Export Control Act do not apply. (S)

We therefore believe that the Department of Justice can successfully rebut arguments that the actions with respect to Iran violated either the congressional reporting provisions of the National Security Act or the requirements of the Arms Export Control Act.

Chas. J. Cooper

Charles J. Cooper
Assistant Attorney General
Office of Legal Counsel

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[2] We understand that the President informed members of Congress of this transaction pursuant to the section 501 of the National Security Act.

## Exhibit CJC-3

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EXHIBIT CJC-3

III. SOVIET MILITARY POSTURE

-- Moscow has designs on parts of Iran. [redacted]

-- Afghanistan illustrates the price the Soviets are ready to pay to expand areas under their direct control.

-- Summarize Soviet capabilities along border and inside Afghanistan which could threaten Tehran.

-- U.S. is aware of Soviet activity [redacted]

-- Soviet plans [redacted] How they would do it.

-- Iranian support to Sandinista regime in Nicaragua aids and abets Soviet designs -- makes U.S.-Iranian relationship more difficult ($100 million in oil, plus arms).

-- U.S. can help Iran cope with Soviet threat.

IV. AFGHANISTAN

-- May be real value for Iran and U.S. to find ways to [redacted]

-- U.S. can provide humanitarian assistance for refugees [redacted] well as lethal aid for Mujahideen.

-- We need to know who you work with, what you already provide, and devise strategy to exploit Iranian comparative advantage.

V. HARDWARE

-- We may be prepared to resume a limited military supply relationship.

-- However, its evolution and ultimate scope will depend on whether our convergent or our divergent interests come to loom larger in the overall picture.

-- What does Iran want?

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Partially Dec [illegible] Released on 22 June 1987
under provisions [illegible]
by [illegible]

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(Maximum Version)

## U.S./IRANIAN CONTACTS AND THE AMERICAN HOSTAGES

From the earliest months following the Islamic revolution in Iran, the U.S. Government has attempted to reestablish official contact with that government in order to discuss strategic developments in that critical part of the world and to try and reestablish a constructive working relationship. Even before President Reagan came to office the U.S. Government agreed to expand security, economic, political, and intelligence relationships at a pace acceptable to Tehran. In the fall of 1979, the U.S. undertook three secret missions to Tehran:

-- September 1979 [redacted]

-- October 1979 [redacted]

-- October-November 1979 [redacted] (discussed normalization of relations)

When these meetings and the secret November 1, 1979 meeting in Algiers, between Brzezinski and Prime Minister Bazargan, became public in Iran, they precipitated the takeover of the U.S. Embassy by radical elements and led to the resignation of the Bazargan government. These events have adversely influenced Iran's subsequent willingness to engage in any direct contact with the USG.

Despite mutual difficulties involved in re-establishing normal relations, our strategic interests in the Persian Gulf mandate persistent efforts on our part to try to establish a dialogue. In this regard, it is notable that only a few major countries do not have relations with Iran -- Egypt, Jordan, Morocco, Israel, South Africa, and the United States. Even Iraq continues to have diplomatic relations with Iran.

Iran, the key to a region of vital importance to the West, is increasingly threatened by growing Soviet military and political influence along its borders and inside its territory. Over the course of the last two years, the Soviets and their surrogates have moved actively to gain influence in the Gulf:

-- The Soviets believe that once Khomeini dies, they will have an excellent opportunity to influence the formation of a government in Tehran which serves Soviet strategic interests in the area.

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-- Communist nations have become principal arms suppliers to Iran -- making Iran dependent on this source of supply in contending with an increasingly threatening Iraq. This leads us to the conclusion that the Soviets may well be attempting to pursue their own revolution in Iran. That is, by fueling both sides in the conflict, the Soviets could well encourage a disastrous "final offensive" by Iran that would precipitate a political disintegration in Iran, leaving a power vacuum which the Soviets could exploit. Specifically, the Communist influence in Iran stems from:

[redacted]

The increasing desperation brought on by the costs of the Iran-Iraq war has exacerbated Iran's vulnerability to Soviet influence. Moreover, Soviet designs in Afghanistan, pressure on Pakistan, and actual crossborder strikes in Iran from Afghanistan have made reopening a strategic dialogue increasingly important.

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In short, the Soviets were far better positioned to significantly improve their influence in the region in 1985 when we were presented with an opportunity to open a dialogue with Iran. In deciding to exploit this opening, we evaluated previous efforts through more conventional channels which had not succeeded.

Since 1983, various countries have made overtures to the U.S. and Iran in an effort to stimulate direct contact. [redacted] About two years ago, senior Iranian officials apparently decided that some accommodation with the U.S. was necessary. However, internal splits and debates made it difficult for them to respond to these overtures.

Numerous individuals and private parties have likewise attempted to be helpful as intermediaries in establishing contact in Iran or in seeking Iranian assistance in the release of our citizens held hostage in Lebanon. [redacted]

In 1985, a private American citizen (Michael Ledeen) was approached by a representative of the Israeli government (David Kimche), who reported that they had established a liaison relationship with an Iranian expatriate (Manuchehr Ghorbanifar) in Europe who sought Israeli help in establishing contact with the U.S. Government. In acknowledging the need to demonstrate the bonafides of the officials involved, he (Ghorbanifar) indicated that his "sponsors" in Tehran could also help to resolve the American hostage situation in Beirut.

The Israelis analyzed this intermediary's background exhaustively in order to validate his legitimacy. This analysis led them to have extremely high confidence in his standing and genuine relationship to the highest Iranian officials. Based in large part upon the Israeli evaluation and in recognition of the clear U.S. interest in a dialogue that might, over time, lead to the moderation of Iranian policies, the U.S. established an indirect contact with the Iranian intermediary in mid-1985, through the private U.S. citizen and a senior Israeli official. These contacts were established through the National Security Council staff with the full knowledge of appropriate Cabinet officers. * From the very first meeting with the Israelis and the Iranian, it was emphasized that the USG could not proceed with direct contact unless Iran renounced terrorism as an instrument of state policy.

MORE DETAILS OF MTGS w PR. CUT & OTHERS *

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In June of 1985, in the midst of the TWA-847 hijacking, the Israeli officials in direct contact with the Iranian expatriate asked him to use his influence with senior Iranian officials to obtain the release of the hijacked passengers. Two days after this approach, four Americans held separately from the rest of the hijacked passengers were freed and turned over to Syrian authorities. [redacted] Majlis Speaker Rafsanjani, who was travelling in the mid-east at the time, and Iranian Foreign Minister Velayati both intervened with the captors. Rafsanjani, in his speech on November 4, 1986, for the first time publicly acknowledged his role in this matter.

In September of 1985, the Israelis advised that they were close to ~~achieving a~~ breakthrough in their contact with Iran and would proceed unless we objected. It is important to note that the U.S. had long been aware of Israeli efforts to maintain discreet contact with Iran and to provide Iran with assistance in its war with Iraq. Despite long-term U.S. efforts to convince the Israelis to desist, Israel continued to provide limited military and industrial technology to Iran. The USG judged that the Israelis would persist in these secret deliveries, despite our objections, because they believed it to be in their strategic interests.

RECORD OF YUR EFORTS GET T ISL TO DESIST CHECK HOWARD

On August 22, 1985, the U.S., through the U.S. citizen intermediary, acquiesed in an Israeli delivery of military supplies (508 TOWs) to Tehran. We were subsequently informed that the delivery had taken place at the end of August, though we were not aware of the shipment at the time it was made. U.S. acquiescence in this Israeli operation was based on a decision at the highest level to exploit existing Israeli channels with Tehran in an effort to establish an American strategic dialogue with the Iranian government.

CHECK WITH BUD & PAUL

On September 14, 1985, Reverend Benjamin Weir was released in Beirut by the Islamic Jihad Organization. This release was preceded by an intense effort on the part of Mr. Terry Waite, the Special Emissary of the Archbishop of Canterbury. To this date, Mr. Waite remains the only Westerner to ever meet directly with the Lebanese kidnappers. [redacted]

On October 4, 1985, Islamic Jihad announced that it had "executed" Beirut Station Chief William Buckley in retaliation for the October 1 Israeli air raid on PLO installations in Tunis. This announcement led to a series of meetings in Europe among the U.S. (CIA and NSC), Israeli, and Iranian intermediaries. In these meetings, the Iranians indicated that, while their ability to influence the Hizballah was waning, the Hizballah had not killed

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Buckley; he had in fact died several months earlier of natural causes. We have since substantiated this information in debriefs of Father Jenco and David Jacobsen, both of whom indicate that Buckley probably died on June 3, 1985 of pneumonia-like symptoms.

In late November 1985, the Israelis, responding to urgent entreaties from the Iranians, provided 18 basic HAWK missiles to Iran in order to improve the static defenses around Tehran. The Israeli delivery of HAWK missiles raised U.S. concerns that we could well be creating misunderstandings in Tehran and thereby jeopardizing our objective of arranging a direct meeting with high-level Iranian officials. These missiles were subsequently returned to Israel in February 1986, with U.S. assistance. On December 6-8, 1985, the National Security Advisor ~~met~~ (in London) with the Israeli official and the Iranian contact to make clear the nature of our interest in a dialogue with Iran. At that meeting, Mr. McFarlane stated that our goals were as follows:

- Devising a formula for re-establishing a strategic relationship with Tehran.

- Ending the Iran-Iraq War on honorable terms.

- Convincing Iran to cease its support for terrorism and radical subversion.

- Helping ensure the territorial integrity of Iran and coordinating ways in which we might counter Soviet activities in the region.

Mr. McFarlane made clear that a Western dialogue with Iran would be precluded unless Iran was willing to use its influence to achieve the release of Western hostages in Beirut. He also made clear that we could not and would not engage in trading arms for hostages.

On January 8 ⑨, 1986, the President approved a covert action Finding directing that the intelligence community proceed with special activities aimed at accomplishing the goals set forth above. In accord with extant statutes, the President directed that the Director of Central Intelligence ~~refrain from~~ reporting the Finding to the appropriate committees of the Congress until reasonably sure that the lives of those carrying out the operation (both U.S. and foreign) would not be in jeopardy.

On February 5-7, U.S. officials (NSC and CIA [redacted], a representative of the Israeli Prime Ministry (Amiram Nir), and a senior-level Iranian official [redacted]

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[redacted] met in Germany. At this meeting, the Iranians agreed that, if the USG would provide TOW weapons to Iran, they would, in turn, provide same to the Afghan Mujahideen. The U.S. agreed to explore this possibility and, working with the Israelis, established the following mechanism for transfer of the weapons:

-- The Iranian intermediary (Ghorbanifar) would deposit funds in an Israeli account.

-- The Israelis would transfer funds to a sterile U.S.-controlled account in an overseas bank.

-- Using these funds, the CIA would covertly obtain materiel authorized for transfer from U.S. military stocks and transport this to Israel for onward movement to Iran.

Using the procedures stipulated above, funds were deposited in the CIA account in Geneva on February 11, 1986 and on February 14 1,000 TOWs were transported to Israel for pre-positioning. The TOWs were off-loaded and placed in a covert Israeli facility.

On February 19-21, U.S. and Iranian officials (NSC and CIA) met again in Germany to discuss problems in arranging a meeting among higher-level officials. At this meeting, the U.S. side agreed to provide 1,000 TOWs to Iran as a clear signal of U.S. sincerity. This delivery was commenced on the morning of February 20 and completed in two transits to Tehran on February 21.

On March 7, U.S. (CIA and NSC) and Israeli representatives met with the Iranian intermediary in Paris to determine whether any further progress was possible in arranging for a high-level meeting with U.S. and Iranian officials. During these meetings, the intermediary emphasized the deteriorating economic situation in Iran and Iranian anxieties regarding increasing Iraqi military effectiveness.

[redacted]

The escalation of tensions with Libya, leading up to the April 14 strike, prevented further dialogue from taking place until the Iranians urged the intermediary (Ghorbanifar) to accelerate the

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effort in late April, 1986. At that point, the Iranian expatriate advised us that the leadership in Tehran was prepared to commence a secret dialogue with the United States along the lines of our established goals. We believe that the Iranians were stimulated to renew the contact by the April 17 murder of hostage Peter Kilburn [redacted] in retaliation for the U.S. raid on Libya. [redacted] The Iranian expatriate told the NSC and CIA officers, who met with him in Europe at the end of April, that the Iranians did not wish to be accused of any culpability in Kilburn's death. [redacted]

Based on assurances that we could at last meet face-to-face with top-level Iranian officials, on May 15, the President authorized a secret mission to Tehran by former National Security Advisor McFarlane, accompanied by a CIA annuitant, CIA communicators, members of the NSC staff, and the Israeli and Iranian interlocutors. In order to ensure operational security, the trip was made from Israel, coincident with the delivery of a pallet of spare parts for Iranian defensive weapons systems (HAWK spare electronic parts). At the specific request of the Iranians, alias foreign documentation [redacted] was obtained from the CIA.

In the course of the four-day (May 25-29) visit, lengthy meetings were held with high-level Iranian officials, the first direct contact between the two governments in over six years. Mr. McFarlane and his team were able to establish the basis for a continuing relationship and clearly articulate our objectives, concerns, and intentions. The group was also able to assess first hand the internal political dynamic in Tehran and the effect of the war which Iran clearly can no longer win. Using Presidentially approved Terms of Reference (Tab A), which had been reviewed and approved by appropriate Cabinet officers, McFarlane emphasized that our interest in Iran transcended the hostages, but the continued detention of hostages by a Lebanese group philosophically aligned with Iran prevented progress. During the visit, Mr. McFarlane made clear:

-- that we fundamentally opposed Iranian efforts to expel us from the Middle East;

-- that we firmly opposed their use of terrorism;

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-- that we accepted their revolution and did not seek to reverse it;

-- that we had numerous other disagreements involving regional policies (i.e., Lebanon, Nicaragua, etc.), but might also find areas of common interest (i.e., Afghanistan) through dialogue.

During these meetings, both sides used the opportunity to detail the obstacles to implementing a strategic relationship between the two countries. In addition to the points noted above, Mr. McFarlane emphasized the political problems caused by Iranian involvement in the hostage issue. The Iranians objected to the USG embargo on U.S. military supplies already paid for plus the continued USG blocking of Iranian assets in the U.S., even after U.S. courts had ruled in their favor. During the course of these meetings, the Iranian officials admitted that they could not win the war, but were in a dilemma in Tehran over how to end the conflict given the need to present an Iranian "victory" before it could be concluded. They emphasized that the original aggressor, Saddam Hussein, must be removed from power in order for the war to end. Mr. McFarlane concluded the visit by summarizing that notwithstanding Iranian interest in carrying on with the dialogue, we could not proceed with further discussions in light of their unwillingness to exert the full weight of their influence to cause the release of the hostages.

On June 10, Majlis Speaker Rafsanjani, in a speech in Tehran made guarded reference to Iranian interest in improved relations with the U.S. On July 26, Father Lawrence Jenco was released in the Bekka Valley and found his way to a Syrian military checkpoint. On August 3, three pellets (less than ¼ planeload) of electronic parts for Iranian anti-aircraft defenses (HAWK missile sub-components) arrived in Tehran (from Israel).

In early August 1986, the contact with the Iranian expatriate began to focus exclusively on the willingness of the USG to provide military assistance to Iran in exchange for hostages and we sought to establish different channels of communication which would lead us more directly to pragmatic and moderate elements in the Iranian hierarachy. In mid-August, a private American citizen (MGEN Richard Secord, USAF (Ret.)) acting within the purview of the January Covert Action Finding, made contact in Europe with [redacted] of a senior Iranian official (Rafsanjani). With the assistance of the CIA, this Iranian (Ali) was brought covertly to Washington for detailed discussions. We judged this effort to be useful in establishing contact with a close confidant of the man judged to

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be the most influential and pragmatic political figure in Iran (Rafsanjani). These discussions reaffirmed the basic objectives of the U.S. in seeking a political dialogue with Tehran. We also provided intelligence designed to discourage an Iranian offensive and contribute to an Iranian decision to negotiate an end to the war.

Through August, September, and October 1986, numerous additional meetings were held in Europe between U.S. representatives and the new and Iranian contacts. During the October 26, 1986 meeting in Frankfurt, Germany, the U.S. side, as in the past, insisted that the release of the hostages was a pre-requisite to any progress. The Iranian, [redacted] urged that we take a more active role in support for the Afghan resistance [redacted]

The Iranians also proffered, and the U.S. accepted, the offer of a Soviet T-72 [redacted] At this meeting, [redacted] stated that there was a "very good chance that another American or two would be reed soon." On October 29, with U.S. acquiscence, Israel provided Iran with an additional increment (500 TOW missiles) of these defensive weapons.

Late on October 31, [redacted] called the U.S. citizen (Hakim) tasked to maintain contact and advised that Iran had "exercised its influence with the Lebanese" in order to obtain the release of American -- David Jacobsen -- and an uncertain number of French hostages. He further noted that this was part of the purpose of the Iranian Foreign Minister's visit to Syria. [redacted] stated that the situation in Tehran, as well as Iranian influence over Hizballah were both deteriorating; [redacted] On November 2, David Jacobsen was driven to a point near the old American Embassy compound in West Beirut. The U.S. Embassy in East Beirut immediately dispatched an embassy officer to West Beirut to pick up Mr. Jacobsen.

It is now apparent that persistent U.S. efforts to establish contact with Iran have probably exacerbated the power struggle in Iran between pragmatic elements (led by Rafsanjani) and more radical factions (under the overall sponsorship of Ayatollah Montazeri). In late October, radical supporters (of Montazeri) revealed the (Rafsanjani) contact with the USG and the terms of the contact. In order to defend himself against charges of colluding with the USG and to preserve a degree of latitude for both parties, Majlis Speaker Rafsanjani provided a highly fabricated version of the May 1986 McFarlane mission in his

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November 4 address to the masses. Moderate Iranian political leaders apparently now feel constrained to settle their internal political problems before proceeding with the U.S. relationship. The revelations in Tahran regarding the McFarlane mission are demonstrable evidence of the internal power struggle. The October 1986 arrest of radical leader Mehdi Hashemi, a close confidant and son in-law of Aytollah Montezari, for acts of terrorism and treason has caused further internal conflict. Resolution of the Lebanon hostage situation is also complicated by waning Iranian influence in Lebanon due in part to financial constraints and the fact that the Libyans are expand[illegible] their contacts with more radical Hizballah elements. [redacted] Despite these internal difficulties [illegible] attendant publicity in the Western media, the [illegible]ntinue to maintain direct contact with the USG and met again [illegible] Geneva on November 9-10 with NSC and CIA representatives. [redacted]

It is i[illegible]tant to note that since the initiation of the USG contact with Iran there has been no evidence of [illegible] government complicity in acts of terrorism against the [illegible]. We believe that the September-October kidnappings of Mess[illegible]. Reed, Cicippio, and Tracy were undertaken in an effort to undermine [illegible] nascent U.S.-Iranian strategic dialogue and exacerbate the interna[illegible] Iranian power struggle against the moderate faction with whi[illegible] have been in contact. [redacted] Contrary to speculative reports that these hostages were taken in order to stimulate the acquisition of more arms, they were most likely captured in order to prevent the very rapprochement with Iran we are seeking.

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Throughout this process, the USG has acted within the limits of established policy and in compliance with all U.S. law. The shipment of 2,008 TOWs and 235 HAWK missile parts was undertaken under the provisions of a covert action Finding.

In support of this Finding and at the direction of the President, the CIA provided the following operational assistance:

-- Sterile overseas bank accounts for financial transactions.

-- A secure transhipment point for the dispatch of U.S. military items from the U.S.

-- Transhipment of military items from the U.S. to Israel.

-- Communications and intelligence support for the meetings with Iranian officials and the McFarlane trip to Tehran in May.

-- Cleared meeting sites in Europe for meetings with Iranian officials.

-- Alias documentation for U.S. and foreign officials for meetings in Europe and Tehran.

The weapons and materiel provided under this program are in no way adequate to alter the balance of military power nor the outcome of the war with Iraq. They have, however, had a positive effect on the Afghan resistance and demonstrated the U.S. commitment to Iranian territorial integrity. Further, U.S. efforts over the last 18 months have had tangible results on Iranian policy:

-- The Rafsanjani/Velayati intervention on behalf of the TWA #847 passengers (June 1985).

-- Iranian direction that the hijacked Pan Am #73 could not leave Karachi for Iranian territory.

-- [redacted]

-- The release of three American and two French hostages.

[illegible]

It should also be noted that the U.S. arms embargo notwithstanding, West European nations have provided $500 million a year in military equipment to Iran. Most of these transfers were accomplished with government knowledge and/or acquiescence.

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All appropriate Cabinet Officers have been apprised throughout. The Congress was not briefed on the covert action Finding due to the extraordinary sensitivity of our Iranian contacts and the potential consequences for our strategic position in Southwest Asia. Finally, our efforts to achieve the release of the hostages in Lebanon must continue to rely on discreet contacts and intermediaries who cannot perform if they are revealed.

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(26)

## Exhibit CJC-4

EXHIBIT CJC-4

( From Paul Thompson

Sept.' 85 – armament Isr. → Iran, replenished after Finding
apparently 3 shipments
at most, 2000 antitank – (TOWs) in total
some made after Aug. 27, 1986 (when Arms Export Control A
was amended).

500 replenish TOWs to Israel

DOD → CIA → proprietary (non-CIA) → Israel → IR

Economy Act
Paul says, total value less than

Dave - CIA - GC

( In Jan., Weinberger looked at legal issue & was satisfied.
- so did Meese, presumably...

Re Sept –
note the lang. in Arms Export Control Act & use of term "would" – would Pres. have approved of sale by govt. (Isr) to a prohibited country (Iran) –

Is there any significance to fact

( CJC 6 to TD MG 6/22/87

The arms transferred were not among the arms that were suspended per Ex. Order (& which had been previously approved by Cong) & ∴ could have been sent by Pres if Ex. Ord revoke (even implicitly).
WF--

# EXHIBIT CJC-5

UNCLASSIFIED

20 Nov 86, 2[illegible]

Testimony
21 November 1986

Throughout the Reagan Administration, both the national security community and the intelligence community have been keenly aware and constantly concerned about the geopolitical position and the strategic significance of Iran. Much thought and effort has been devoted to how we might develop contacts and relationships which would provide a better understanding of what is happening there and ~~establish contacts and relationships~~ and which might lead to improved relationships later on.

I recall speaking to [redacted] about the importance of our identifying and establishing contact with leaders in a future Iran. [redacted] said that we do not know who will emerge to lead Iran in the future, but that we must gather all the strands and hold them in our hands so that we will be ready. [redacted]

In the late fall of 1985, Bud McFarlane, after ~~a~~ one of the weekly meetings which he and his deputy had with me and my deputy, asked me to stay behind. He told me about discussions he had had at the highest levels in Israel urging the desirability of discussions with officials in Iran and offering channels of access. He told me that only a handful of people in the Israeli and American govt were aware of the effort. I distinctly recall McFarlane emphasizing that the purpose of such discussions would be the future relationships with Iran and its great importance in the East-West and Middle East-Persian Gulf equation. The Israelis wanted to put us in touch with an Iranian expatriate. The Israelis said they had checked out this man's background and contacts exhaustively and had high confidence in the quality of his relationship with high Iranian officials.

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Partially Declassified/[illegible] 23 Jul 1987
under [illegible]
by B. Reger, [illegible]

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EXHIBIT
CJC-5

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CJC-5

McFarlane had been told that at the time of the TWA 747 hijacking in 1985, the Israelis had asked this Iranian expatriate to use his influence with senior Iranian officials to obtain the release of some of the hijacked passengers. Just two days later, four Americans who had been taken from the plane separated from the bulk of the hijacked passengers were freed and turned over to Syrian authorities. The Speaker of the Majlis, Rafsanjani, had been ~~was~~ traveling in the Middle East at the time with Iranian Foreign Minister Velayati and were believed to have intervened with the captors to release the four Americans. Rafsanjani, in a speech on 4 November 1986 (~~check year~~), for the first time publicly acknowledged his role in securing the freedom of the all hijacked passengers.

In late November 1985, the NSC asked our officers to recommend a charter airline, the reliability of which we could vouch for, to carry some cargo from Tel Aviv into Iran. Our [redacted] was told that there was some urgency about this in connection with a meeting in Geneva between an Iranian official, the expatriate intermediary, and private U.S. citizens. Our [redacted] recommended a proprietary of theirs called [redacted] This little airline regularly took on commercial ventures ~~and they~~ W did not know what was being moved. When the plane got to Tel Aviv, the pilots were told the cargo was spare parts for the oil fields and was to go into Tabriz. Our [redacted] decided that in order to protect the plane, our [redacted] should be asked to get flight clearances into Iran. On 25 November 1985, the plane dropped the cargo in Tehran without knowing what it was. The Israelis were unwitting that the plane was a CIA proprietary and the airline charged the normal commercial rate which was approximately $127 thousand ~~million~~. Our Associate Deputy Director for Operations authorized the flight because of the alleged

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urgency of the requirement, ~~but in consultation~~ He with When the Deputy Director was consulted it was decided that we would not provide any future support of flights into Iran in the absence of a finding.

We didn't learn until sometime in January 1986 that the shipment involved 18 air defense missiles and that it was later rejected by the Iranians on the basis that it was not what the Iranians had ordered from the Israelis. In this affair, our air proprietary had been made available to accommodate a delivery requirement in which the NSC was interested and the shipment was billed and paid for at the normal rates charged by our air proprietary.

In the meantime, the policy of probing the possibility of discussions with Iranian officials, including making small shipments of arms to establish our good faith and to induce them to use their influence with those holding our hostages, was discussed at one or two meetings of the NSPG principals. There were differences of view about the desirability of this policy, but it was finally decided that it should be cautiously pursued.

On 6-8 December 1985, Bud McFarlane, then National Security Advisor, met in London with the Israeli officials and the Iranian expatriate. At this meeting, Mr. McFarlane stated our goals of pursuing the relationship with Iran were these:

- -- Devising a formula for reestablishing a strategic relationship with Tehran.
- -- Ending the Iran-Iraq War on honorable terms.
- -- Convincing Iran to cease its support for terrorism.
- -- Helping ensure the territorial integrity of Iran and coordinating ways to counter Soviet activities in the region.

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Mr. McFarlane made clear that in this relationship we would expect Iran to use its influence to achieve the release of Western hostages in Lebanon. He also made it clear that we could not and would not engage in trading arms for hostages.

On 17 January 1986, a Presidential Finding was signed directing the CIA to provide operational and logistical support for a program aimed at (1) establishing a more moderate government in Iran, (2) obtaining intelligence to determine the current Iranian government's intentions with respect to its neighbors and with respect to terrorist acts, and (3) furthering the release of American hostages held in Beirut and preventing further terrorist acts by these groups.

The Finding stated that the USG will provide moderate elements within the government of Iran with arms equipment and related materiel in order to enhance the credibility of these elements in their efforts to achieve a more moderate government in Iran by demonstrating their ability to obtain resources to defend their country.

In the Finding, the President directed the CIA to refrain from reporting the Finding to the Congress as provided in Section 501 of the National Security Act of 1947, as amended, until otherwise directed.

At the time the Presidential Finding was signed, the CIA's Office of General Counsel provided the legal opinion that the President clearly has the authority to withhold prior notice of operations from the Congress. Section 501 of the National Security Act expressly provides that notification of intelligence activities to the Congress shall be provided "to the extent consistent with all applicable authorities and duties, including those conferred by the Constitution."

The Act also states that the Intelligence Committees be informed of activities for which no prior notice was given at the appropriate time as determined by the President. This was a clear recognition that extraordinary circumstances could lead the President to conclude that notice of an operation should be withheld, in whole or in part.

The history to the Oversight Act shows that an accommodation recognizing both the President's constitutional responsibility and authority and the Congressional oversight responsibility and authority was reached in this legislative process. The subsequent procedures agreed upon by the DCI and the SSCI on reporting covert action operations provide that advance reporting of such operations would also be subject to the exceptional circumstances contemplated in Section 501 of the National Security Act.

The President determined that the activities authorized by the Finding justified withholding prior notification due to the extreme sensitivity of the dialogue being established. His advisors recognized that if the fact of this program become known, the American hostages in Lebanon would be put at a greater risk.

On 5-7 February 1986, U.S. officials from the NSC and CIA met in Germany with representatives of the Israeli Prime Ministry and a senior-level Iranian official. At this meeting, the Iranians agreed that if the USG would provide TOW weapons to Iran, they would, [redacted] The U.S. agreed to explore this possibility and, working with the Israelis, established the following mechanism for transfer of the weapons:

-- The Iranian intermediary would deposit funds in an Israeli account.

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-- The Israelis would transfer funds to a sterile U.S.-controlled account in an overseas bank.

-- Using these funds, the CIA would covertly obtain materiel authorized for transfer from U.S. military stocks and transport this to Israel for onward movement to Iran.

Using these procedures, funds were deposited in the CIA account in Geneva on 11 February 1986 and on 14 February 1,000 TOWs were transported to Israel for pre-positioning. These TOWs were transferred by CIA from DoD (U.S. Army stocks in Anniston, Alabama) and transported through [redacted] using standard CIA-DoD [redacted] logistics arrangements. Policy-level coordination for these arrangements was effected by NSC (North) with DoD (Armitage and Koch) and CIA (Clair George). The TOWs were placed in a covert Israeli facility awaiting onward shipment.

On 19-21 February, U.S. and Iranian officials (NSC and CIA) met again in Germany to discuss problems in arranging a meeting among higher-level officials. At this meeting, the U.S. side agreed to provide 1,000 TOWs to Iran as a clear signal of U.S. sincerity. This delivery was commenced on the morning of 20 February and completed in two transits to Tehran on 21 February. Transportation from Israel to Iran was aboard a false flag Israeli aircraft.

On 7 March, U.S. (CIA and NSC) and Israeli representatives met with the Iranian intermediary in Paris to determine whether any further progress was possible in arranging for a high-level meeting with U.S. and Iranian officials. During these meetings, the intermediary emphasized the deteriorating economic situation in Iran and Iranian anxieties regarding increasing Iraqi military effectiveness.

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Based on [illegible] we could at last meet face-to-face with top-level Iranian officials, on 15 May the President authorized a secret mission to Tehran by former National Security Advisor McFarlane, accompanied by a CIA annuitant, CIA communicators, members of the NSC Staff, and the Israeli and Iranian interlocutors. In order to ensure operational security, the trip was made from Israel, coincident with the delivery of a pallet of spare parts for Iranian defensive weapons systems (HAWK spare electronic parts). At the specific request of the Iranians, alias foreign documentation [redacted]-obtained from the CIA--was used.

In the course of the four-day (25-29 May) visit, lengthy meetings were held with high-level Iranian officials, the first direct contact between the two governments in over six years. Mr. McFarlane and his team were able to establish the basis for a continuing relationship and clearly articulate our objectives, concerns, and intentions. The group was also able to assess first-hand the internal political dynamic in Tehran and the effect of the war on Iran. Using Presidentially-approved Terms of Reference, which had been reviewed and approved by appropriate Cabinet officers, McFarlane emphasized that our interest in Iran transcended the hostages, but the continued detention of hostages by a Lebanese group philosophically aligned with Iran prevented progress. During the visit, Mr. McFarlane made clear:

-- that we fundamentally opposed Iranian efforts to expel us from the Middle East;

-- that we firmly opposed their use of terrorism;

-- that we accepted their revolution and did not seek to reverse it;

-- that we had numerous other disagreements involving regional policies (i.e., Lebanon, Nicaragua, etc.), but might also find areas of common interest [redacted] through dialogue.

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During these meetings, both sides used the opportunity to detail the obstacles to implementing a strategic relationship between the two countries. In addition to the points noted above, Mr. McFarlane emphasized the political problems caused by Iranian involvement in the hostage issue. The Iranians objected to the USG embargo on U.S. military supplies already paid for plus the continued USG blocking of Iranian assets in the U.S., even after U.S. courts had ruled in their favor.

On 10 June, Majlis Speaker Rafsanjani, in a speech in Tehran made guarded reference to Iranian interest in improved relations with the U.S. On 26 July, Father Lawrence Jenco was released in the Bekka Valley and found his way to a Syrian military checkpoint. On 3 August, three pallets (less than 1/2 planeload) of electronic parts for Iranian anti-aircraft defenses (HAWK missile sub-components) arrived in Tehran (from Israel).

In mid-August, two new contacts were made with Iran. George Cave made contact with [redacted], and Ollie North made contact with [redacted] of the senior Iranian official Rafsanjani. Through August, September, and October 1986, numerous additional meetings were held in Europe between U.S. representatives and the new and Iranian contacts. During the 26 October 1986 meeting in Frankfurt, Germany, the U.S. side, as in the past, insisted that the release of the hostages was a pre-requisite to any progress. The Iranian, [redacted] urged that we take a more active role in support [redacted] and suggested again that if we could provide additional TOW weapons to Iran [redacted] The Iranians also proffered, and the U.S. accepted, the offer of a Soviet T-72 tank [redacted] At this meeting, [redacted] stated that there was a "very good chance that another American or two would be freed soon." On 29 October, with U.S. acquiscence, Israel provided Iran with an additional increment of defensive weapons (500 TOW missiles).

These discussions with [redacted] satisfied us first that we were directly in touch with top leadership in Iran and that there was some interest in working together in converging the strategic interests of Iran and the U.S. and our moderate Arab friends in the Persian Gulf in protecting them from the threat of Soviet aggression.

Late on 31 October, [redacted] called the U.S. citizen (Hakim) tasked to maintain contact and advised that Iran had "exercised its influence with the Lebanese" in order to obtain the release of an American--David Jacobsen--and an uncertain number of French hostages. He further noted that this was part of the purpose of the Iranian Foreign Minister's visit to Syria. On 2 November, David Jacobsen was released by his captors near the old American Embassy compound in West Beirut. The U.S. Embassy in East Beirut immediately dispatched an embassy officer to West Beirut to pick up Mr. Jacobsen.

It now appears that persistent U.S. efforts to establish contact with Iran have probably exacerbated the power struggle in Iran between pragmatic elements (led by Rafsanjani) and more radical factions (under the overall sponsorship of Ayatollah Montazeri). In late October, radical supporters (of Montazeri) revealed the (Rafsanjani) contact with the USG and the terms of the contact. Apparently to defend himself against charges of colluding with the USG and to preserve a degree of latitude for both parties, Majlis Speaker Rafsanjani provided a purposely distorted version of the May 1986 McFarlane mission in his 4 November address to the masses.

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[redacted] The arrest of Mehdi Hashemi [redacted] Despite these internal difficulties and attendant publicity in the Western media, the Iranians continue to maintain direct contact with the USG and met again in Geneva on 9-10 November with NSC and CIA representatives. [redacted]

It is important to note that since the initiation of the USG contact with Iran, there has been no evidence of Iranian government complicity in acts of terrorism against the U.S. We believe that the September-October kidnappings of Messrs. Reed, Cicippio, and Tracy were undertaken in an effort to undermine the nascent U.S.-Iranian strategic dialogue and exacerbate the internal Iranian power struggle against the moderate faction with which we have been in contact. [redacted] Contrary to speculative reports that these hostages were taken in order to stimulate the acquisition of more arms, they were most likely captured in order to prevent the very rapproachment with Iran we are seeking.

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## EXHIBIT CJC-6

UNCLASSIFIED

SUBJECT: CIA Airline Involvement

In late November 1985, a CIA proprietary airline was chartered to carry cargo to Iran at the NSC's request. The cargo was described to us as oil drilling spare parts. Although we did not know it at the time, the cargo was actually 18 Hawk missles. The chronolgy of the incident is as follows:

On 22 November 1985, the NSC contacted the Agency with an urgent request for ~~for the name of~~ a discreet, reliable airline that could transport bulky oil-drilling parts to an unspecified destination in the Middle East.

We offered the name of the CIA's proprietary airline as a company which could handle the NSC request. The NSC passed the name of our airline to ~~their intermediary with the Iranians.~~ the Israelis.

In the interim, we contacted our airline and told them that they would be receiving an urgent, legitimate charter request. The NSC intermediary contacted the airline that evening (22 November) and made arrangements for the airline to pick-up the parts in [redacted]

The destination was changed to Tel Aviv and two ~~of our airline's~~ Boeing 707's operated by the proprietary arrived in Tel Aviv 23 November. The cargo was ultimately loaded onto only one of the aircraft. Loading was completed by 24 November and the aircraft proceeded to Iran via a stop at [redacted] and then overflying [redacted] At the NSC's request, and for the protection of our aircraft, we helped arrange for the overflight clearances.

To the best of our knowledge, neither the Israelis nor the Iranians knew ~~intermediary did not know~~ that they was dealing with a CIA proprietary, nor did airline personnel know what they were carrying. [illegible] ~~We or CIA did not find~~ out that our airline had hauled Hawk missles into Iran until mid-January when we were told by the Iranians.

The airline was paid by the Israelis the normal commercial rate which amounted to approximately $127,700. I should stress that the airline does a considerable amount of normal business in addition to its support to CIA. It had, in fact, made another unrelated ~~legitimate~~ flight into Tehran carrying commercial items prior to the 22-25 November incident.

Senior CIA management found out about the flight on 25 November. ~~February~~. Although we did not know the nature of the cargo, we thought that any future support of this type to the NSC would require a Finding.

Partially Declassified/Released on 23 June 19
under provisions of E.O. 12356
by B. Reger, National Security Council

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WC-6

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## Exhibit CJC-7

UNCLASSIFIED [redacted]

[redacted] In the early fall of 1985, Bud McFarlane after one of the weekly meetings in which he as National Security Adviser and his deputy had with me and my deputy, Bud asked me to stay behind. He told me about the discussions he had had at the highest levels in Israel urging the desirability of discussions with officials in Iran and offering to us channels of access. He said that for obvious reasons, only a handful of people in the Israeli and American governments knew about this effort. McFarlane emphasized that the purpose of these discussions would be the future relationship with Iran and Iran's great importance in the East-West and Middle East-Persian Gulf political equation, political strategic equation.

Now, that was the beginning of my first inkling of this.

The CIA's involvement began in late November of 1985 when the Agency was there asked to recommend a reliable airline that could transport bulky cargo to an unspecified location in the Middle East. This requirement specified that the carrier had to be reliable and able to move rapidly, quickly.

A propriety of ours which regularly took on commercial ventures was designated. When the plane got to Tel Aviv the crew was informed that

EXHIBIT CJC-7

TOP SECRET [redacted]

CJC 7

the cargo was spare parts for the oil fields and that it was to go to Tabriz.

Our [redacted] back in Washington decided that in order to protect the plane, our [redacted] should be asked to get flight clearances into Iran, and this was done.

On 25 November 1985, the plane dropped the cargo in Tehran. To the best of our knowledge, neither the Israelis nor the Iranians knew that they were dealing with a CIA proprietary, and believed it to be just another commercial charter airliner. The airliner was paid the normal commercial rate which amounted to approximately $127,000.

This little activity was autyorized by our Associate Deputy Director for Operations. I was out of the country at the time and then Deputy Director John McMahon was in charge. He approved the flight as an urgent mission in keeping with proprietary normal business, but he directed that we would not provide any future flights into Iran in the absence of a Finding. This flight was done without a Finding.

In the meantime, the Israeli proposal of holding the possibility of discussion with Iranian officials, including making small shipments of arms to establish our good faith and induce them to use their influence with those

Mr. Casey. I don't believe it has. I believe we have moved on any terrorist activity which we saw that threatened our interest.

Mr. McCurdy. Thank you, Mr. Chairman.

The Chairman. Mr. Hyde.

Mr. Hyde. I have had my say, so I will not ask questions.

The Chairman. Mr. Beilenson.

Mr. Beilenson. Mr. Ireland, do you want my time?

Mr. Ireland. No, no.

Mr. Beilenson. I am concerned about my friend. Thank you, Mr. Chairman.

Most of the things I wanted to ask about have been asked, but let me ask a couple other things if I may.

First, I was out of the room for a couple minutes and I may have missed this, but with respect to weaponry provided to the Iranians, so far as we are directly involved and concerned it was something like 2008 TOWs.

Mr. Casey. Yes.

Mr. Beilenson. And spare parts for HAWK missiles?

Mr. Casey. That is right.

Mr. Beilenson. Has there been beyond that through Israel, for example, any major transfers of arms to Iran?

Mr. Casey. Well, we suspect there have been and we do know that the Israelis provided some weapons to them before we got involved, but that is in a very complicated way, some of that has been aborted, some of that has been adjusted, so that we take responsibility for the 2008 TOWs plus the HAWK missile parts.

Mr. Beilenson. Have the Israelis made any shipments that require notification or require permission from the U.S. before transferring to Iran, do you know?

Mr. Casey. There was one shipment that was made in the summer of 1985 which we heard about later, that for a time in order to keep this going we waived, or didn't take action on the failure of the Israelis to get the necessary permission and we have since I believe straightened that out.

Mr. Beilenson. Have we replenished the Israelis?

Mr. Casey. We have replenished the Israelis, yes, one shipment they made was replenished.

Mr. Beilenson. Just that one?

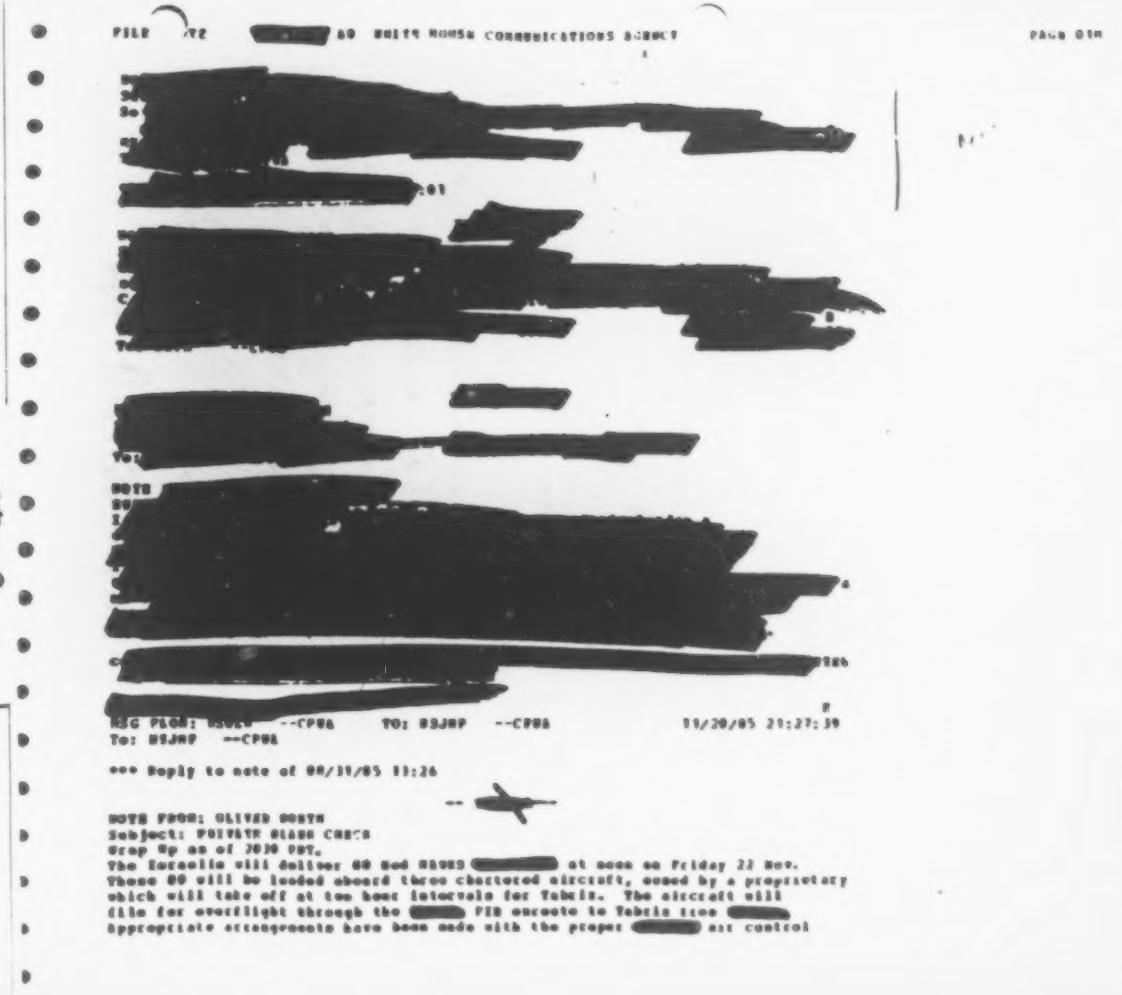
Mr. Casey. Yes.

Mr. Beilenson. Let me ask just one other question if I may. With respect to -- when you were responding to Mr. Wright and others with respect to the requirements of notification, you said something along the lines of when the project failed and we didn't care about it any more or succeeded, then we would report it.

What project, how would you define the project?

## Exhibit CJC-8

EXHIBIT
CJC-8



FILE [illegible] [redacted] AD WHITE HOUSE COMMUNICATIONS AGENCY PAGE 018

[redacted]

[redacted]

[redacted]

[redacted]

MSG FROM: NSOLN --CPUA TO: NSJMP --CPUA 11/20/85 21:27:39
To: NSJMP --CPUA

*** Reply to note of 08/31/85 11:26

NOTE FROM: OLIVER NORTH
Subject: PRIVATE BLANK CHECK
Wrap Up as of 2030 EST.
The Israelis will deliver 80 Mod HAWKS [redacted] at noon on Friday 22 Nov.
These 80 will be loaded aboard three chartered aircraft, owned by a proprietary
which will take off at two hour intervals for Tabriz. The aircraft will
file for overflight through the [redacted] FIR enroute to Tabriz from [redacted].
Appropriate arrangements have been made with the proper [redacted] air control

WJC-8

personnel. Once the aircraft have been launched, their departure will be confirmed by [redacted] who will call [redacted] who will call [redacted] [redacted] who will direct [redacted] in Beirut to collect the five rpt five AmCits from Hizballah and deliver them to the U.S. Embassy. There is also the possibility that they will hand over the French hostage who is very ill.
There is a requirement for 40 additional weaps of the same nomenclature for a total requirement of 120. $10M in payment for the first 80 has been deposited in the appropriate account. No acft will land in Tabriz until the AMCITS have been delivered to the embassy. The Iranians have also asked to order additional items in the future and have been told that they will be considered after this activity has succeeded. All transfer arrangements have been made by Dick Secord, who deserves a medal for his extraordinary short notice efforts.

Replenishment arrangements are being made through the MOD purchasing office in NYC. There is, to say the least, considerable anxiety that we will somehow delay on their plan to purchase 120 of these weapons in the next few days. IAW your instructions I have told their agent that we will sell them 120 items at a price that they can meet. I have further told them that we will make no effort to move on their purchase LOA request until we have all five AMCITS safely delivered. In short, the pressure is on them.

Tomorrow we will dispatch a covert hostage debrief team to Wiesbaden, under cover of an exercise. [redacted] EUCOM will be told to prepare a C-141 for four-hour alert to pick up any hostages who may be released over the weekend. All of the parties above will be told that we have info (from the same source which advised us of Weir's release) that some, if not all, AMCIT hostages will be turned over [redacted] between now and Sunday.

As soon as we have the release confirmed, we need to move quickly with Defense to provide the 120 missiles the Israelis want to buy. They are very concerned that they are degrading their defense capability, and in view of the Syrian shoot-down yesterday the PM has placed considerable pressure on both Rabin and Kimche for very prompt replacement. Both called several times today.

There is the distinct possibility that at the end of the week we will have five Americans home and the promise of no future hostage takings in exchange for selling the Israelis 120 new HAWKs. Despite the difficulty of making all this fit inside a 96-hour window, it isn't that bad a deal -- [redacted] Warm regards.
Recommend pass to RCM after review. North.

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  J  PRIVATE BLANK CHECK
MSG FROM: NSOLN   --CPUA     TO: NSJMP   --CPUA              11/20/85 21:14:39
To: NSJMP   --CPUA
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y
Pdvlr

*** Reply to note of 11/19/85 19:09

-- [redacted]

NOTE FROM: OLIVER NORTH
Subject: Central American Brief
This has been fixed. Charlie was not notified by the CIA legislative affairs &

## EXHIBIT CJC-9

EXHIBIT
CJC-9

CJC-7

[redacted]: [illegible] --CPUA 11/22/85 09:27:05

*** Reply to note of [illegible] 13:26

-- SECRET --

NOTE FROM: OLIVER NORTH
Subject: PRIVATE BLANK CHECK
Status Report as of 1730:

5 May 1987

(222)

FILE: NOTE [redacted] TO WHITE HOUSE COMMUNICATIONS AGENCY

[redacted]

Secord , and the Charge continue to seek clearance for A/C from Israel which can land and proceed. Despite the difficulties of the past 24 hours, all continue to believe that if OCN can get thru to that this can be done.

We continue to explore three options:

-- Charter a new A/C to pick up the cargo in Tel Aviv (TA) and deliver at for xfer to the three Chartered DC-8s for the flight to Tabriz (T).

-- Fly the 3 chartered A/C direct to TA, p/u the cargo, fly to ) refile for T from

-- Fly the three chartered A/C directly to TA, load cargo, proceed directly to T w/o filing until airborne and in

All continue to believe (including Kimche [illegible] one is only realistic solution. Other options complicate origin and risk eventual uncovering of many operational details. Kimche urges that solution be found to [illegible] this weekend to protect hostages and those who will deliver them.

UPDATE AS OF 0930:

Secord contacted at 0730. has agreed to have A/C fly to TA load at . Dewey has arranged for a proprietary to work for Secord (Copp). Copp will charter two 707s in the name of Lake Resources (our Swiss Co.) and have them p/u the cargo and deliver it to . At the cargo will be xfered to the three Iranian chartered DC-8/55s for the flight to T. Though I am sure Copp suspects, he does not know that the 707s belong to a proprietary. Clarridge deserves a medal - - so does Copp.

Kimche (DG) has been told how screwed up his people are in planning something like this on such short notice. Not only was the 747 they planned to use a national airlines a/c, but they only had it chartered for 96hrs. We have now taken charge of that phase of the operation and are making direct contact to obtain flight clearances for the three DC-8s chartered by DG's buyer. If all goes as we now hope, the cargo will be in by noon (local) and enroute to T shortly after dark. That means we can expect hostages (hopefully) Saturday night.

UPDATE AS OF 1400:
Unbelievable as it may seem, I have just talked to Schwimmer, in TA who advises that they have released their DC-8s in spite of my call to him instructing that they be put on hold until we could iron out the clearance problem in ) Schwimmer released them to save $ and now does not think that they can be re-chartered before Sunday.

5 May 1987

(223)

N 12093

FILE. -NOTE [redacted] AS WHITE HOUSE COMMUNICATIONS AGENCY PAGE 022

UPDATE AS OF 1130:
Advised Copp of loss of p/o A/C. Dy has advised that we can use one of our L100 Hercules A/C which can at [illegible] We p/u a load of ammo for UNO. We will have the a/c repainted tonight and put into service at once but so that we can at least get this thing moving. So help me I have never seen anything so screwed up in my life. Will meet w/ Calero tonite to advise that the ammo will be several days late in arriving. Too bad, this was to be our first direct flight to the resistance field at [redacted] inside Nicaragua. The ammo was already palletized w/ parachutes attached. Maybe we can do it on Weds or Thurs.
More as it becomes available. One hell of an operation.
* ORIGINAL NOTE CHKD

[redacted]

[redacted] NOTE --CPUA 11/23/85 10:12 ***

[redacted]

5 may 1987

(224)

## EXHIBIT CJC–10

EXHIBIT
CJC-10

FILE: NOTE [redacted] AO WHITE HOUSE COMMUNICATIONS AGENCY PAGE 025

FINALLY, IF MY READING OF THE TEA LEAVES IS RIGHT, A QUICK TRIP TO CENTAM (INCLUDING A VERY BRIEF STOP IN EL SALVADOR - 2hrs) WOULD HAVE POSITIVE BENEFITS BOTH HERE IN THE STATES AND DOWN THERE SHORTLY AFTER YOU ARE CONFIRMED/ANNOUNCED. PLS ADVISE.

PRIVATE BLANK CHECK

MSG FROM: NSOLN --CPUA TO: NSJMP --CPUA 12/04/85 02:02:55
To: NSJMP --CPUA

*** Reply to note of 08/31/85 13:26

-- SECRET --

NOTE FROM: OLIVER NORTH
Subject: PRIVATE BLANK CHECK
Subject: Current Status of Operation Recovery: Following summary is based on discussions in Geneva among Kimche, Copp, Gorbanifahr and [redacted] which were concluded this weekend, subsequent discussions with Roudy Seror here in Washington which are continuing, and calls btwn Copp and Kimche's agent (Nimrodi) who is "baby sitting" the Iranians in Paris (where they are now receiving guidance from Tehran).

The attempted transfer [redacted] of 18 Hawk missiles went awry because the Iranians were in fact seeking a weapons system that would be capable of stopping Soviet reconnaissance flights along the Iranian/Soviet border and on the Iranian/Iraqi border. Gorba rptd that these flights occur regularly and as deep as 60mi inside Iranian airspace. Because Schwimmer and Ledeen were unfamiliar with the operational parameters of the HAWK, they agreed to ship 120 weapons that were totally inadequate to meet the rqmts established by the Iranians. This delivery has created an atmosphere of extraordinary distrust on the part of the Iranians; in Kimche's view, because the credibility of the Gorba[redacted] mission has probably been seriously called into question.

Despite this perception (Gorba said numerous times that this whole thing was a "cheating game" on the part of the Israelis), Copp & Kimche have been able to proceed with a renewed dialogue which still promises hope for achieving our three objectives:
-- support for a pragmatic - army oriented faction which could take over in a change of government
-- return of the five AMCIT hostages
-- no more terrorism directed against U.S. personnel or interests.

From these ongoing discussions, which in two cases included Iranian military officers, Copp and Kimche conclude that the military situation in Iran is desperate. The Iranian descriptions of the state of their equipment, lack of competent management, inability to use much of the remaining U.S. materiel portends the real possibility of a military collapse (at least by the Army) in the near to mid-term. Thus, there is considerable pressure on the interlocutors in Europe to produce - quickly.

Given the relatively low level of competence on the part of the Iranians in Europe, and the fact that any supplies delivered will undoubtedly have to be examined by an Army or Air Force officer, it is very doubtful that a "single transaction" arrangement can be worked out with the parties in Tehran, no matter what is agreed to in Europe. In short, they have been

CJC-10

"scammed" so many times in the past that the attitude of distrust is very high on their part. At the same time, in all discussions (including today's phone calls) they are desperate to conclude some kind of arrangement in the next 10 days and have even asked that the meeting scheduled for Saturday in London be advanced. Based on what we can conclude from intelligence in Beirut, we believe that they are very concerned that the hostages (the only Iranian leverage point besides the Jews in Iran) may be killed or captured/released by the Syrians, Druze, Phalange or Amal in the near future. Waite's contacts with the captors seem to corroborate this assessment. In short, time is very short for all parties concerned.

Finally, there is the matter of the longer term strategy for what we should be attempting to accomplish vis a vis the Iran-Iraq war and a more reasonable government in Iran. From my personal discussions with Kimche and Beren it is apparent the the Israelis want: the war to continue at a stalemate, a more moderate Iranian government in the end and will somehow find a way to continue getting their people (Jews) out of Iran through some kind of barter arrangement. In that the first two of their goals are, it would seem, generally congruent w/ our interests, and their last a fact of life, we should probably be seeing the return of the AMCIT hostages as a subsidiary benefit -- not the primary objective, though it may be a part of the necessary first steps in achieving the broader objectives. While Kimche, Beren, Copp and I all agree that there is a high degree of risk in pursuing the course we have started, we are now so far down the road that stopping what has been started could have even more serious repercussions. We all view the next steps as "confidence building" on the part of both sides. None of us have any illusions about the cast of characters we are dealing with on the other side. They are a primitive, unsophisticated group who are extraordinarily distrustful of the West in general and the Israelis/U.S. in particular. They have not the slightest idea of what is going on in our government or how our system works. Today for example, Gorba called Copp in absolute confusion over the fact that Rafsanjani had just received a letter from (of all people) Sen. Helms regarding the American Hostages. Since the Iranians are adamant that they not be publicly connected with the seizure, holding or release of the AMCITs, why, Gorba wanted to know, was Helms being brought into this "solution to the puzzle." Gorba reiterated that "Batri ought to have more control over the members of his parliament" than to allow them to confuse an already difficult problem. Dick told him the letter had nothing to do with what we are about, but Gorba did not seem convinced that this wasn't some sort of effort to embarrass Iran.
Given this very unsophisticated view of things on their part and the distrust that the Iranians obviously feel, we believe that if we stop the current effort at this point and do not at least proceed with a "test" of the current relationship we:

-- run the risk of never being able to establish a "foothold" for the longer term goals in that the people we are dealing with will be totally discredited at home; and
-- incur the greater likelihood of reprisals against us for "leading them on." These reprisals could take the form of additional hostage seizures, execution of some/all of those now held, or both.

While the threat to carry out sanctions against us has not, to my knowledge, ever arisen (it certainly has not since Kimche/Copp/North have been directly engaged -- and Michael never mentioned it), it is interesting to note.

that when Copp questioned the bona fides of Gorba and his cohorts as capable of delivering on their end of the arrangement, Gorba carefully noted that since these discussions began w/ Michael & Schwimmer, there has not been a single Islamic Jihad bomb threat, hijacking or kidnapping -- and that there would be none if this "worked." N.B., Copp and I regard this to be at least one sign of confidence that this activity may yet prosper. There are some lesser indications of confidence in recent days:

-- in response to Copp's demand for funds to be deposited in advance to defray operational costs, and what the Iranians were told were "purchases on the arms market" a total of $41M has been deposited;
-- the 18 HAWKs delivered last week have been repackaged and are ready for return to origin on the next available flight;
-- the parties in Europe continue to stress that their requirements are long-term and that they are anxious to get on with a longer range program of Israeli originated support which would include technical assistance w/ sophisticated hardware which is critically needed but deadlined (in this regard Gorba at one point noted that at [illegible] they have as few as 50 operational tanks and less than a dozen flyable aircraft).

With all of the above as a lengthy preamble describing two nearly frantic weeks w/ the Israelis & Iranians, the following proposal has evolved which the Iranians today said they wd like to discuss in detail on Saturday:

-- The total "package" from the Israelis wd consist of 50 I HAWKs w/ PIP (product improvement package) and 3300 basic TOWs.
-- Deliveries wd commence on or about 12 December as follows:

H-hr: 1 707 w/300 TOWs = 1 AMCIT
H+10hrs: 1 707 (same A/C) w/300 TOWs = 1 AMCIT
H+16hrs: 1 707 w/50 HAWKs & 400 TOWs = 2 AMCITs
H+20hrs: 1 707 w/300 TOWs = 1 AMCIT
H+24hrs: 1 747 w/2000 TOWs = French Hostage

All involved on our side recognize that this does not meet one of the basic criteria established at the opening of this venture: a single transaction which wd be preceded by a release of the hostages. However, given the points above regarding the mutual distrust in the dialogue, we all believe it is about the only way we can get the overall process moving. Measures have been taken to reduce the chance for duplicity on the part of the Iranians and to preserve a measure of OPSEC in carrying out the transaction. In the case of a double cross, one of the Iranians will be in the hands of assets we control throughout. One of them [redacted] has already suffered a serious (though apparently not fatal) heart attack after last week's HAWK transaction failed to produce results. The first two deliveries, via 707 freighters are relatively small and if they do not produce the desired outcome, all else stops. All 3 are now under our control.

OpSEC concerns are threefold: communications, deliveries enroute to Iran and replenishment of the Israeli stocks. To solve the first problem an OPS Code is now in use by all parties. This code is similar to the one used to oversee deliveries to the Nicaraguan Resistance and has never been compromised. The delivery/flight planning security problem has been solved by a much more deliberate selection of aircraft and aircrews as well as a series of transient airfields which can be used enroute to the field controlled by the Iranian Army at Tabriz. Appropriate arrangements have also been made to ensure that the overflight of [redacted] is not challenged. All A/C will be inspected by one of the Iranians at a transient location between Tel Aviv and Tabriz. Before the A/C actually crosses into Iranian airspace, the appropriate release(s) must occur. The last OPSEC concern, that of replenishing Israeli stocks, is probably the most delicate issue. The quantity of TOWs requested represents [redacted] Secord and I are working w/ the Israeli purchasing office in NYC to ensure that the replenishment can be accomplished quickly after December 12 as possible. All recognize that quantities [redacted] degrade Israeli readiness and that the items will need to be dispatched quickly in order to preclude disaffection and leaks. Secord has solved at least one of the problems in this regard by identifying a means of transferring the required cash to an IDF account which will allow cash (rather than FMS credit) purchases from the U.S.

In order to put this plan into action, Kimche, Copp, Schwimmer and Goode plan to meet in London on Saturday morning to review all arrangements. If we are satisfied that all our assets (money, aircraft, aircrews, transit facilities, overflight arrangements and military equipment) are prepared, Copp and Kimche will meet at another hotel with Gorba and [redacted] to finalize the plan. Our side will then reconvene later in the evening at our hotel to review any last minute changes. I wd then call you (using the Ops code), transmit the agreed upon arrangements for approval and, if you concur, Kimche & Copp will meet again w/ the Iranians on Sunday a.m. to express our agreement with the plan. Copp & Goode wd return to the U.S. Sunday p.m. on separate flights. On the 11th, the day before the plan is to be executed, Copp will establish a CP in [redacted] at the [redacted] controlled airfield [redacted] where he can monitor implementation and stop it at any point we desire. The secondary fields [redacted] will be covered by Copp controlled assets who are not witting of the true origin, destination or contents of the A/C but who can "fix" things in a hurry if something goes wrong. One of our other people will be in contact in [redacted] throughout.

[redacted]

Once in hand, the hostages will be flown [redacted] to Larnaca on our Navy HH-53 where they will be picked up by a EUCOM C-141 and flown to Wiesbaden for debriefing. When later Oakley will proceed from Andrews AFB to Wiesbaden with family members -- thus allowing us 24 uninterrupted hours for debriefing. The debrief team will be staged at Wiesbaden 12 hours in advance, just as we did two weeks ago without notoriety. Dewey is the only other person fully witting of this entire plan. Copp is not briefed on [redacted] - though he suspects. The Israelis are in the same position. Dewey and I have been through the whole concept twice looking for holes and can find little that can be done to improve it given the "trust factor" with the Iranians. In that all parties involved have great interest in keeping this as quiet as possible, [redacted] we believe it to be worth the risk. I have not confided in Dewey re the longer term goals we could/should hope to achieve. Thus, the only parties fully aware of all dimensions of what we are about are you and RCM.

I have given careful consideration to what you suggested re an RCM meeting with the Iranians in an effort to obtain release of the hostages before starting on an effort to undo the present regime in Tehran. Like you and Bud, I find the idea of bartering over the lives of these poor men repugnant. Nonetheless, I believe that we are, at this point, barring unforeseen developments in London or Tel Aviv, too far along with the Iranians to risk turning back now. If we do not at least make one more try at this point, we stand a good chance of condemning some or all to death and a renewed wave of Islamic Jihad terrorism. While the risks of proceeding are significant, the risks of not trying one last time are even greater.

[redacted]

T[redacted]

*[redacted]

[redacted]

[redacted]

NSG FROM: NSOLN --CPUA TO: NSJMP --CPUA 12/05/85 20:04:00

To: NSJMP --CPUA

*** Reply to note of 06/11/85 13:26

## Exhibit CJC-11

UNCLASSIFIED Ollie North —

JL

SUBJECT: Background and Chronology of Special Project

BACKGROUND: The USG has actively sought the release of American hostages held in Iran through various channels since 1984. In addition, the USG has been interested in getting the Government of Iran to moderate its support for international terrorism. As it became clear that some of the hostages were being held by the pro-Iranian faction of the Hizballah, it was felt that the Iranian Government might be able to put pressure on the Hizballah to release its hostages.

In late 1984, Michael Ledeen approached the NSC to discuss contacts with Iran and suggested the NSC work with Israeli officials who already had contacts with Iran based on their covert arms deals with that country. Ledeen met with Prime Minister Peres who agreed to help and introduced Ledeen to David Kimche and Jacob Nimrodi, two other Israeli officials. These two Israelis, in turn, introduced Ledeen to Manucher Gorbanifar, an Iranian arm merchant operating in Europe who was actively involved with the Israelis. Ledeen introduced Gorbanifar to NSC officials. Gorbanifar appeared to be well tied in with various factions within the Iranian Government and he served as the intermediary between the NSC and the Iranians.

In June 1985, the Hizballah hijacked TWA flight 847 and Iranian Majlis Speaker Rafsanjani played an important role in resolving that incident, which included the release of a number of Lebanese Shi'a held by Israel.

Throughout 1985 NSC contacts with Ledeen, Gorbanifar, and the Israelis continued. In summer 1985, NSC [redacted] officials first met Amiran Nir, an Israeli official on Peres' staff who was to become the principle Israeli contact in NSC dealings with Gorbanifar and the Iranians.

[redacted] the NSC to [redacted] due to the imminent release of an American hostage. The NSC informed the
B. CIA that Gorbanifar and [redacted] were involved.

On 14 September 1985, Reverend Weir was relersed by the Hizballah. At the same time, the Israelis, at NSC behest, delivered 508 TOW missiles to Iran. Since the Iranians would not pay for the TOW missiles until they were delivered, and since the NSC was instructed not to use any USG funds for the operation, Gorbanifar used his contacts with Saudi financier Adnan Khashoggi to come up with $5 million USD to pay for the

WARNING NOTICE
INTELLIGENCE SOURCES
AND METHODS INVOLVED

CL BY ______
DECL ______
DERIVED FROM ______

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Partially Declassified/Released on 23 June 1987
under provisions of E.O. 12356
by B. Reger, National Security Council

EXHIBIT
CJC-11

1285

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TOW missiles. The NSC agreed to provide the Israelis with 508 TOW missiles to replace those they provided for the operation. The aircraft carrying the TOW missiles delivered them to Tabriz but had problems during the return flight which forced a technical stop [redacted] before returning to Israel.

On 3 October 1985, the Hizballah announced they ~~have~~ had killed hostage Buckley, though later debriefings of released hostages indicate he probably died in early June 1985.

In November 1985, as the next step in the operation, the NSC arranged for Israel to send 18 [redacted] HAWK missiles to Iran. However, the Israelis neglected to remove the Israeli markings from some of the missiles. This oversight, plus the fact that the Iranians had been led to expect they would be receiving [redacted] HAWK missiles, led to a huge disagreement which caused further developments to grind to a halt.

B. In December 1985, McFarlane left the NSC and Poindexter ordered Ledeen out of the operation and made Ollie North directly responsible for dealing with Gorbanifar [redacted] On the Israeli side, Nimrodi was replaced as the primary contact by Amiran Nir.

In January 1986, the President approved the operation to work with the Iranians for the release of hostages in return for military equipment. The CIA ~~is~~ was asked to provide logistical and operational support.

B. In early 1986, contacts with Gorbanifar serving as a go-between to [redacted] continue.

In mid- February, the NSC delivers 1000 TOWs to Iran.

B. In March 1986, Gorbanifar [redacted] [redacted] meet with the NSC in Germany. The NSC are given a list of spare parts for HAWK missile batteries and radars requested by the Iranians. CIA then works with select number of DOD officials to obtain the spare parts. It is agreed that the spare parts plus more TOW missiles will be delivered to Iran at the successful conclusion of a meeting between NSC officials and Iranians in Tehran.

To provide the US with the money for the spare parts and TOW missiles, Gorbanifar must again finance the deal. He raises 16 million dollars which is passed to the US, with the expectation that the Iranians will, in turn, pay him once the items have been delivered. Gorbanifar again works with

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Khashoggi to raise the money from several Canadian, American, and Arab investors.

On 22 April 1986, a U.S. Customs Service "Sting" Operation in Switzerland under the State Department's "Operation Staunch" disrupts a large on-going Iranian arms procurement deal being run by Gorbanifar. This deal was unrelated to the NSC operation. Gorbanifar is arrested by the Swiss, but released after 24 hours. Gorbanifar loses the money he and Khashoggi put into that particular operation, funds probably raised from the investors for the NSC operation.

On 15 May 1986, Gorbanifar finally comes up with sufficient funds for the next step of the NSC operation and a meeting is arranged to take place in Tehran.

On 22 May 1986, HAWK missile spare parts are picked from Kelly AFB and flown to Israel and the US team departs for Europe.

On 23 May, a second aircraft picks up 508 TOW missiles and flies to Israel.

On 24 May the US team goes to Israel where Nir joins them for the trip to Tehran. The Team departs for Tehran. They bring along some of the Spare Parts to show the Iranians their good faith.

On 25 May, the US team arrives in Tehran and holds meetings with the Iranians. However, the meetings do not go well, probably because the Iranian factional concensus is falling apart. The second aircraft load of spare parts is recalled while on its way to Iran and returns to Israel. The US team departs after five days, having made no progress.

B. In June and July 1986, talks with Gorbanifar and [redacted] continue and it is decided that the Iranians must show their good faith by forcing the Hizballah to release another hostage. In July Gorbanifar goes to Lebanon and Syria in an effort to get Father Jenko released.

On 26 July 1986, Father Jenko is released.

On 3 August 1986, the remainder of the HAWK spare parts that have been collected are delivered to Iran. The spare parts are picked up at Kelly AFB and flown to Iran via Israel.

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## EXHIBIT CJC–12

The Director of Central Intelligence
Washington, D.C. 20505

86-4068M-1

UNCLASSIFIED

26 November 1985

0400

**MEMORANDUM FOR:** Vice Admiral John M. Poindexter, USN
Deputy Assistant to the President
for National Security Affairs

**SUBJECT:** Presidential Finding on Middle East

Pursuant to our conversation this should go to the President for his signature and should not be passed around in any hands below our level.

William J. Casey

Attachment:
As stated

CL BY 0008074
RVW OADR

[redacted]

529

Partially Declassified/Released on 9 May 1987
under provisions of E.O. 12356
by B. Reger, National Security Council

CJC-12

EXHIBIT
CJC-12

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## Finding Pursuant to Section 662 of the Foreign Assistance Act of 1961, As Amended, Concerning Operations Undertaken by the Central Intelligence Agency in Foreign Countries, Other Than Those Intended Solely for the Purpose of Intelligence Collection

0401

I have been briefed on the efforts being made by private parties to obtain the release of Americans held hostage in the Middle East, and hereby find that the following operations in foreign countries (including all support necessary to such operations) are important to the national security of the United States. Because of the extreme sensitivity of these operations, in the exercise of the President's constitutional authorities, I direct the Director of Central Intelligence not to brief the Congress of the United States, as provided for in Section 501 of the National Security Act of 1947, as amended, until such time as I may direct otherwise.

| SCOPE | DESCRIPTION |
|---|---|
| Hostage Rescue - Middle East | The provision of assistance by the Central Intelligence Agency to private parties in their attempt to obtain the release of Americans held hostage in the Middle East. Such assistance is to include the provision of transportation, communications, and other necessary support. As part of these efforts certain foreign materiel and munitions may be provided to the Government of Iran which is taking steps to facilitate the release of the American hostages.<br>All prior actions taken by U.S. Government officials in furtherance of this effort are hereby ratified. |

The White House
Washington, D.C.

Date:

7 May 1987

[redacted]

[illegible]

# EXHIBIT CJC-13

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~~TOP SECRET~~ UNCLASSIFIED TOP SECRET

11/20/86 1300
(Historical Chronology)

EXHIBIT
CJC-13

## U.S./IRANIAN CONTACTS AND THE AMERICAN HOSTAGES

From the earliest months following the Islamic revolution in Iran, the U.S. Government has attempted to reestablish official contact with that government in order to discuss strategic developments in this critical part of the world and reconstruct a working relationship. Even before President Reagan came to office the U.S. Government agreed to try to expand security, economic, political, and intelligence relationships at a pace acceptable to Tehran. In the fall of 1979, the U.S. undertook three secret missions to Tehran:

-- September 1979 - [redacted] (met secretly with Bazargan at the request of the Iranians)

-- October 1979 - [redacted]

-- October-November 1979 - [redacted] (discussed normalization of relations)

When these meetings and the secret November 1, 1979 meeting in Algiers, between Brzezinski and Prime Minister Bazargan, became public in Iran, they helped precipitate the takeover of the U.S. Embassy by radical elements and led to the resignation of the Bazargan government. These events have adversely influenced Iran's subsequent willingness to engage in any direct contact with the USG.

Despite mutual difficulties involved in re-establishing normal relations, our strategic interests in the Persian Gulf mandate persistent efforts to establish a dialogue. In this regard, it is notable that only a few major countries do not have relations with Iran -- Egypt, Jordan, Morocco, Israel, South Africa, and the United States. Even Iraq continues to have diplomatic relations with Iran.

Iran is the key to a region of vital importance to the West, yet it is increasingly threatened by growing Soviet military power and political influence along its borders and inside its territory. Over the course of the last two years, the Soviets and their surrogates have moved actively to gain greater influence in the Gulf:

-- The Soviets believe that once Khomeini dies, they will have an excellent opportunity to influence the formation of a government in Tehran that serves Soviet strategic interests in the area.

Partially Declassified/Released on 22 June 1987
Under provisions of E.O. 12356
by B. Reger, National Security Council

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~~Declassify: OADR~~

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-- Communist nations have become the principal arms suppliers to Iran -- making Iran dependent on this source of supply in contending with an increasingly strengthened Iraq. This leads us to the conclusion that the Soviets may well be attempting to pursue their own revolution in Iran. That is, by fueling both sides in the conflict, the Soviets could well encourage a disastrous "final offensive" by Iran that would precipitate a political disintegration in Iran, leaving a power vacuum which the Soviets could exploit. Specifically, the indicators of Communist influence in Iran are:

[redacted]

The increasing desperation brought on by the costs of the Iran-Iraq war has exacerbated Iran's vulnerability to Soviet influence. Moreover, Soviet designs in Afghanistan, pressure on Pakistan, and actual crossborder strikes in Iran from Afghanistan have made reopening a strategic dialogue increasingly important.

TOP SECRET

In short, the Soviets were far better positioned to improve significantly their influence in the region in 1985 when we were presented with an opportunity to open a dialogue with Iran. In deciding to exploit this opening, we evaluated previous efforts through more conventional channels which had not succeeded.

About two years ago, senior Iranian officials apparently decided that some accommodation with the U.S. was necessary. Since 1983, various countries have been engaged in overtures to the U.S. and Iran in an effort to stimulate direct contact [redacted] However, internal splits and debates made it difficult for the Iranians to respond to these overtures.

Numerous individuals and private parties have likewise attempted to be helpful as intermediaries in establishing contact in Iran or in seeking Iranian assistance in the release of our citizens held hostage in Lebanon. [redacted]

In the spring of 1985, a private American citizen (Michael Ledeen) learned from an Israeli government official (David Kimche) that the Israelis had established a liaison relationship with an Iranian expatriate (Manuchehr Ghorbanifar) in Europe who sought Israeli help in establishing contact with the U.S. Government. In acknowledging the need to demonstrate the bonafides of the Iranian officials involved, he (Ghorbanifar) indicated that his "sponsors" in Tehran could also help to resolve the American hostage situation in Beirut.

In June of 1985, in the midst of the TWA-847 hijacking, the Israeli officials in direct contact with the Iranian expatriate asked him to use his influence with senior Iranian officials to obtain the release of the hijacked passengers. Two days after this approach, four Americans held separately from the rest of the hijacked passengers were freed and turned over to Syrian authorities. [redacted] Majlis Speaker Rafsanjani, who was travelling in the mid-east at the time, and Iranian Foreign Minister Velayati both intervened with the captors. Rafsanjani, in his speech on November 4, 1986, for the first time publicly acknowledged his role in this matter.

On July 3, 1985, during a visit to Washington, an Israeli official (Kimche) advised National Security Advisor, Robert McFarlane, that Israel had established a channel of communication with authoritative elements in Iran who were interested in determining whether the United States was open to a discreet, high-level dialogue. The Iranians were described as comprising the principal figures of the government (i.e., Speaker of the Majlis Rafsanjani, Prime Minister Musavi, and Khomeini's heir-apparent, Ayatollah Montazeri) and as being devoted to a reorientation of Iranian policy.

At this first meeting, McFarlane went to great length to draw out the Israeli as to why he found the Iranian proposal credible, given the events of the past six years. The Israeli replied that their exhaustive analysis had gone beyond the surface logic deriving from the chaos and decline within Iran and the degenerative effects of the war, to more concrete tests of the willingness of the Iranians to take personal risks. He noted that the Iranians had exposed themselves to possible compromise by meeting with Israelis and by passing extremely sensitive intelligence on the situation (and political line-up) within Iran -- information which was proven valid.

The Israeli asked for our position on opening such a dialogue. No mention was made of any pre-conditions or Iranian priorities. McFarlane conveyed this proposal to the President (in the presence of the Chief of Staff). The President said that he believed such a dialogue would be worthwhile at least to the point of determining the validity of the interlocutors. This decision was passed to the Israeli diplomat by telephone on July 30.

On August 2, 1985, the Israeli called again on McFarlane. At this meeting, he stated that he had conveyed our position to the Iranian intermediary and that the Iranians had responded that they recognized the need for both sides to have tangible evidence of the bona fides of the other and that they believed they could affect the release of the Americans held hostage in Lebanon.

According to the Israeli, the Iranians separately stated that they were vulnerable as a group and before having any prospect of being able to affect change within Iran they would need to be substantially strengthened. To do so, they would need to secure the cooperation of military and/or Revolutionary Guard leaders. Toward this end, they expressed the view that the most credible demonstration of their influence and abilities would be to secure limited amounts of U.S. equipment. The Israeli asked for our position on such actions.

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Mr. McFarlane elevated this proposition to the President at a meeting within days that included the Secretaries of State and Defense and the Director of Central Intelligence. The President stated that, while he could understand that assuming the legitimacy of the interlocutors, they would be quite vulnerable and ultimately might deserve our support to include tangible materiel; at the time, without any first hand experience in dealing with them, he could not authorize any transfers of military materiel. This was conveyed to the Israeli.

On August 22, 1985, the Israeli diplomat called once more to report that the message had been conveyed and that an impasse of confidence existed. He asked what the position of the U.S. Government would be to an Israeli transfer of modest quantities of defensive military materiel. McFarlane replied that to him, such an action would represent a distinction without a difference. The Israeli diplomat explained at great length that Israel had its own policy interests that would be served by fostering such a dialogue in behalf of the U.S., but that a problem would arise when ultimately they needed to replace items shipped. He asked whether Israel would be able to purchase replacements for items they chose to ship. McFarlane stated that the issue was not the ability of Israel to purchase military equipment from the U.S. -- they had done so for a generation and would do so in the future -- but rather the issue was whether it was U.S. policy to ship or allow others to ship military equipment to Iran. The Israeli asked for a position from our government. McFarlane elevated the question to the President (and to the Secretaries of State and Defense and the Director of Central Intelligence). The President stated that, while he could envision providing materiel support to moderate elements in Iran if all the Western hostages were freed, he could not approve any transfer of military materiel at that time. This position was conveyed to the Israeli diplomat.

On September 14, 1985, Reverend Benjamin Weir was released in Beirut by the Islamic Jihad Organization. This release was preceded by an intense effort on the part of Mr. Terry Waite, the Special Emissary of the Archbishop of Canterbury. To this date, Mr. Waite remains the only Westerner to ever meet directly with the Lebanese kidnappers. [redacted]

In late September, we learned that the Israelis had transferred 508 TOW missiles to Iran and that this shipment had taken place in late August. The Israelis told us that they undertook the action, despite our objections, because they believed it to be in their strategic interests. The Israelis managed this entire operation, to include delivery arrangements, funding, and transportation. After discussing this matter with the President, it was decided not to expose this Israeli delivery because we wanted to retain the option of exploiting the existing Israeli channel with Tehran in our own effort to establish a strategic dialogue with the Iranian government. The total value of the 508 TOWs shipped by Israel was estimated to be less than $2 million.

On October 4, 1985, Islamic Jihad announced that it had "executed" Beirut Station Chief William Buckley in retaliation for the October 1 Israeli air raid on PLO installations in Tunis. This announcement led to a series of meetings in Europe among the U.S. (CIA and NSC), Israeli, and Iranian intermediaries. In these meetings, the Iranians indicated that, while their ability to influence the Hizballah was waning, the Hizballah had not killed Buckley; he had in fact died several months earlier of natural causes. We have since substantiated this information in debriefs of Father Jenco and David Jacobsen, both of whom indicate that Buckley probably died on June 3, 1985 of pneumonia-like symptoms.

HAWKS

In mid-November, the Israelis through a senior officer in the Prime Minister's office (Amiram Nir), indicated that the Government of Israel was convinced that they were nearing a breakthrough with Iran on a high-level dialogue. The Israeli asked a U.S. official (North) for the name of a European-based airline which could discreetly transit to Iran for the purpose of delivering passengers and cargo. We were assured, at the time, that the Israelis were going to "try oil drilling parts as an incentive," since we had expressed so much displeasure over the earlier TOW shipment. The name of the proprietary [redacted] was passed to the Israeli, who subsequently had the aircraft chartered through normal commercial contract for a flight from Tel Aviv to Tabriz, Iran, on November 25, 1985. In January, we — who learned that the Israelis, responding to urgent entreaties from the Iranians, used the aircraft to transport 18 HAWK missiles to Iran in an effort to improve the static air defenses around Tehran. The Israelis were unwitting of the CIA's involvement in the airline and the airline was paid at the normal commercial rate (approximately $127,700). The airline personel were also unwitting of the cargo they carried. Pilot knew.

[illegible]

how?

The Israeli delivery of HAWK missiles raised serious U.S. concerns that these deliveries were jeopardizing our objective of arranging a direct meeting with high-level Iranian officials. As a consequence of U.S. initiative and by mutual agreement of all three parties, these missiles were subsequently returned to Israel in February 1986. ?

by whom

[illegible]

On December 7, the President convened a meeting in the White House (residence) to discuss next steps in our efforts to establish direct contact with the Iranians. Attending the

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meeting were the Chief of Staff, Secretaries of State and Defense, the Deputy Director of Central Intelligence, and the Assistant to the President for National Security Affairs and his Deputy. Immediately after the meeting, Mr. McFarlane departed for London to meet with the Israeli official and the Iranian contact to make clear the nature of our interest in a dialogue with Iran. At this meeting, Mr. McFarlane, as instructed by the President, stated that:

-- the U.S. was open to a political dialogue with Iran, but that no such dialogue could make progress for as long as groups seen as dominated by Iran held U.S. hostages; and

-- the U.S. could under no circumstances transfer arms to Iran in exchange for hostages.

These points were made directly to the Iranian interlocutor. The Iranian replied that, unless his associates in Tehran were strengthened, they could not risk going ahead with the dialogue. Mr. McFarlane acknowledged the position but stated we could not change our position. In a separate meeting with the Israeli official, Mr. McFarlane made clear our strong objections to the Israeli shipment of the TOW missiles. Following these meetings, Mr. McFarlane returned to Washington and shortly thereafter left active government service.

On January 2, the Prime Minister of Israel dispatched a special emissary to the U.S. (Amiram Nir) to review proposals for next steps in dealing with Iran. The Israelis urged that we reconsider the issue of providing limited defensive arms to those attempting to take power in Tehran, since all other incentives (economic assistance, medical supplies, machine parts) were of no value in shoring-up those who wanted an opening to the West. Admiral Poindexter noted our stringent objections to the HAWK missile shipments in November and noted that the U.S. would have to act to have them returned (a step undertaken in February, when all 18 missiles were returned to Israel). In that any implementation of the Israeli proposals would require the active participation of the intelligence community, the NSC Staff (North) was tasked to prepare a covert action finding. Work on this Presidential finding commenced on January 4.

Hawk

On January 6, the President, the Vice President, the Chief of Staff, and the National Security Advisor and his assistant reviewed the first draft of the Finding and the recommendations made by the Prime Minister of Israel through his special emissary.

On January 7, the President met in the Oval Office with the Vice President, the Chief of Staff, Secretaries Shultz and Weinberger, Attorney General Meese, Director Casey, and the National Security

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Advisor to discuss the overall situation in Iran and prospects for a strategic dialogue. It was again noted that Mr. McFarlane, on return from his trip to London, had recommended that no further action be taken unless a mechanism could be established by which the U.S. could exert better control over events. He agreed, in principle, with Director Casey that providing limited quantities of defensive arms after the hostages were released still had merit. Both Secretary Shultz and Secretary Weinberger objected to any provision of arms, citing that we could not be sure that these would really help moderate elements and that, if exposed, the project would not be understood by moderate Arabs and would be seen as contravening our policy of not dealing with states that support terrorism. The President decided that we should attempt to keep the Israeli channel active as long as it offered possibilities for meetings with high-level Iranian officials and left open the issue of providing defensive arms to Iran if all the hostages were released.

It was further determined by the President that any dialogue with the Iranians must be aimed at achieving the following goals:

-- Devising a formula for re-establishing a strategic relationship with Tehran.

- Ending the Iran-Iraq War on honorable terms.

- Convincing Iran to cease its support for terrorism and radical subversion.

- Helping ensure the territorial integrity of Iran and coordinating ways in which we might counter Soviet activities in the region.

The President made clear that a Western dialogue with Iran would be precluded unless Iran were willing to use its influence to achieve the release of Western hostages in Beirut. He also made clear that we could not and would not engage in trading arms for hostages. Secretaries Shultz and Weinberger retained their original position on providing any amrs to Iran, but Attorney General Meese and Director Casey both supported the concept as a valid means of opening the dialogue. Attorney General Meese noted a 1981 determination by then Attorney General French Smith that transferring small quantities of arms through third countries under a Covert Action Finding was not illegal.

[redacted]

[redacted]

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On January 16, a meeting was held in the National Security Advisor's office with Secretary Weinberger, Attorney General Meese, Director Casey, and CIA General Counsel Stanley Sporkin. At this meeting, the final draft of the Covert Action Finding was reviewed and was forwarded to the President with Secretary Weinberger dissenting.

On January 17, 1986, the President approved a Covert Action Finding (Tab A) directing that the intelligence community proceed with special activities aimed at accomplishing the goals set forth above. The President futher determined that the activities authorized by the Finding justified withholding prior Congressional notification due to the extreme sensitivity of the dialogue being established. He further noted that public knowledge of the program would place the American hostages in Lebanon at greater risk. Noting his concern for the lives of those carrying out the operation (both U.S. and foreign), he directed that the Director of Central Intelligence refrain from reporting the Finding to the appropriate committees of the Congress until reasonably sure that those involved would no longer be in jeopardy.

On February 5-7, U.S. officials (NSC and CIA [redacted], a representative of the Israeli Prime Ministry (Amiram Nir), and a senior-level Iranian official [redacted] met in London. At this meeting, the Iranians agreed that, if the USG would provide defensive weapons (TOWs) to Iran, they would, in turn, provide same to the Afghan Mujahideen. The U.S. side agreed to explore this possibility and, working with the Israelis, established the following mechanism for transfer of the weapons:

-- The Iranian intermediary (Ghorbanifar) would deposit funds in an Israeli account.

-- The Israelis would transfer funds to a sterile U.S.-controlled account in an overseas bank.

-- Using these funds, the CIA would covertly obtain materiel authorized for transfer from U.S. military stocks and transport this to Israel for onward movement to Iran.

Using the procedures stipulated above, $3.7 million was deposited in the CIA account in Geneva on February 11, 1986 and on February 14, 1,000 TOWs were transported to Israel for pre-positioning. These TOWs were transferred by CIA from DOD (U.S. Army stocks in Anniston, Alabama) and transported through [redacted] using standard CIA-DOD [redacted] logistics arrangements. Policy-level coordination for these arrangements was effected by NSC (North) with DOD (Armitage) and CIA (Clair George). The TOWs were placed in a covert Israeli facility awaiting onward shipment.

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On February 19-21, U.S. (NSC and CIA), Israeli and Iranian officials met in Germany to discuss problems in arranging a meeting among higher-level officials. At this meeting, the Iranians committed [redacted] After coded authorization was received from Washington, the U.S. side agreed to provide 1,000 TOWs to Iran as a clear signal of U.S. sincerity. This delivery was commenced on the morning of February 20 and completed in two transits to Tehran on February 21. Transportation from Israel to Iran was aboard a false flag Israeli aircraft.

[redacted]

On February 24, U.S. (CIA and NSC) officials met again in Frankfurt with the Israeli and Iranian officials to discuss next steps. At this meeting, the U.S. side urged that the Iranians expedite a meeting among higher-level officials on both sides.

On February 28, the Prime Minister of Israel wrote to President Reagan (Tab B) urging continued efforts to achieve a strategic breakthrough with Iran, but asking consideration for the safety of recently seized Israeli hostages.

On March 7, U.S. (CIA and NSC) and Israeli representatives met with the Iranian intermediary in Paris to determine whether any further progress was possible in arranging for a high-level meeting with U.S. and Iranian officials. During these meetings, the intermediary emphasized the deteriorating economic situation in Iran and Iranian anxieties regarding increasing Iraqi military effectiveness.

The escalation of tensions with Libya, leading up to the April 14 strike, prevented further dialogue from taking place until the Iranians urged the intermediary (Ghorbanifar) to accelerate the effort in late April, 1986. At that point, the Iranian expatriate advised us through the Israeli point-of-contact that the leadership in Tehran was prepared to commence a secret dialogue

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with the United States along the lines of our established goals. We believe that the Iranians were stimulated to renew the contact by the April 17 murder of hostage Peter Kilburn [redacted] in retaliation for the U.S. raid on Libya. [redacted]

The Iranian expatriate told the NSC and CIA officers, who met with him in Europe at the end of April, that the Iranians did not wish to be accused of any culpability in Kilburn's death. [redacted]

On May 6, 7, 1986, U.S. and Israeli officers met in London with the Iranian intermediary in which he urged that we take immediate steps to arrange for a high-level U.S./Iranian meeting in Tehran. During the London meeting, the Iranian urged that we (U.S. and Israel) take immediate steps to help with Iranian air defense. He emphasized that the Iraqi Air Force was increasingly effective of late and that the Iranians were desperate to stop attacks on population centers. The Israelis also used this opportunity to privately ask the U.S. to replace the 508 TOWs which they had sent to Iran in August, 1985. The Israelis were informed via coded message on May 15 that the U.S. had agreed to the Iranian request for limited anti-air defense equipment and to replenish the 508 TOWs sent by Israel.

Based on assurances that we could at last meet face-to-face with top-level Iranian officials, on May 15, the President authorized a secret mission to Tehran by former National Security Advisor McFarlane, accompanied by a CIA annuitant, CIA communicators, members of the NSC staff, and the Israeli and Iranian interlocutors.

On May 16, the Iranians, through the Israelis provided $6.5M for deposit in the CIA secure funding mechanism. The funds were used to acquire 508 TOW missiles (for replenishing the TOWs Israel shipped in September 1985) and acquiring HAWK missile electronic spare parts. This material was subsequently moved to [redacted] repackaged and shipped to Kelly AFB for onward movement to Israel on May 22. As in the February shipment, the CIA provided logistics support for the movement of this materiel to Israel.

In order to ensure operational security, the McFarlane trip was made from Israel, coincident with the delivery of a pallet of spare parts for Iranian defensive weapons systems (HAWK spare

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electronic parts). At the specific request of the Iranians, alias foreign documentation [redacted] -- obtained from the CIA -- was used. CIA also provided covert transportation support from CONUS to Israel for the McFarlane party. The group was transported from Israel to Tehran aboard an Israeli Air Force 707 with false flag markings.

In the course of the four-day (May 25-29) visit, lengthy meetings were held with high-level Iranian officials, the first direct contact between the two governments in over six years. Mr. McFarlane and his team were able to establish the basis for a continuing relationship and clearly articulate our objectives, concerns, and intentions. The group was also able to assess first hand the internal political dynamic in Tehran and the effect of the war which Iran clearly can no longer win. Using Presidentially approved Terms of Reference (Tab B), which had been reviewed and approved by appropriate Cabinet officers, McFarlane emphasized that our interest in Iran transcended the hostages, but the continued detention of hostages by a Lebanese group philosophically aligned with Iran prevented progress. During the visit, Mr. McFarlane made clear:

-- that we fundamentally opposed Iranian efforts to expel us from the Middle East;

-- that we firmly opposed their use of terrorism;

-- that we accepted their revolution and did not seek to reverse it;

-- that we had numerous other disagreements involving regional policies (i.e., Lebanon, Nicaragua, etc.), but might also find areas of common interest (i.e., Afghanistan and the Soviet threat to the Gulf) through dialogue.

During these meetings, both sides used the opportunity to detail the obstacles to implementing a strategic relationship between the two countries. In addition to the points noted above, Mr. McFarlane emphasized the political problems caused by Iranian involvement in the hostage issue. The Iranians objected to the USG embargo on U.S. military supplies already paid for plus the continued USG blocking of Iranian assets in the U.S., even after U.S. courts had ruled in their favor. During the course of these meetings, the Iranian officials admitted that they could not win the war, but were in a dilemma in Tehran over how to end the conflict given the need to present an Iranian "victory" before it could be concluded. They emphasized that the original aggressor, Saddam Hussein, must be removed from power in order for the war

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to end. Mr. McFarlane concluded the visit by summarizing that notwithstanding Iranian interest in carrying on with the dialogue, we could not proceed with further discussions in light of their unwillingness to exert the full weight of their influence to cause the release of the Western hostages in Lebanon.

On June 10, Majlis Speaker Rafsanjani, in a speech in Tehran made guarded reference to Iranian interest in improved relations with the U.S. On July 26, Father Lawrence Jenco was released in the Bekka Valley and found his way to a Syrian military checkpoint.

On August 3, the remaining three pallets (less than ½ planeload) of electronic parts for Iranian anti-aircraft defenses (HAWK missile sub-components) arrived in Tehran. As in all flights to/from Iran this delivery was made with an Israeli Air Force aircraft (707) using false flag markings. Timing of the delivery was based on coordination among U.S., Israeli and Iranian officials.

In early August 1986, the contact with the Iranian expatriate began to focus exclusively on the willingness of the USG to provide military assistance to Iran in exchange for hostages and we sought to establish different channels of communication which would lead us more directly to pragmatic and moderate elements in the Iranian hierarachy. In mid-August, a private American citizen (MGEN Richard Secord, USAF [Ret.]) acting within the purview of the January Covert Action Finding, made contact in Europe with [redacted] a relative [redacted] of a senior Iranian official (Rafsanjani). With the assistance of the CIA, this Iranian [redacted] was brought covertly to Washington for detailed discussions. We judged this effort to be useful in establishing contact with a close confidant of the man judged to be the most influential and pragmatic political figure in Iran (Rafsanjani). These discussions reaffirmed the basic objectives of the U.S. in seeking a political dialogue with Tehran. We also provided assessments designed to discourage an Iranian offensive and contribute to an Iranian decision to negotiate an end to the war. The assessments also detailed the Soviet threat to Iran.

Through August, September, and October 1986, numerous additional meetings were held in Europe between U.S. representatives and the new Iranian contacts. During the October 26, 1986 meeting in Frankfurt, Germany, the U.S. side, as in the past, insisted that the release of the hostages was a pre-requisite to any progress. The Iranian, [redacted] urged that we take a more active role in support for the Afghan resistance [redacted]

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The Iranians also proffered, and the U.S. accepted, the offer of a Soviet T-72 tank [redacted] The Iranians have also offered to provide a copy of the 400 page interrogation of Beirut Station Chief William Buckley. At this meeting [redacted] stated that there was a "very good chance that another American or two would be freed soon." On October 29, with U.S. acquiscence, Israel provided Iran with an additional increment of defensive weapons (500 TOW missiles).

Late on October 31, [redacted] called the U.S. citizen (Hakim) tasked to maintain contact and advised that Iran had "exercised its influence with the Lebanese" in order to obtain the release of an American -- David Jacobsen -- and an uncertain number of French hostages. He further noted that this would be part of the purpose of the Iranian Foreign Minister's visit to Syria -- an event we became aware of on November 1, 1986. [redacted] stated that the situation in Tehran, as well as Iranian influence over Hizballah were both deteriorating. [redacted] On November 2, David Jacobsen was released by his captors near the old American Embassy compound in West Beirut. The U.S. Embassy in East Beirut immediately dispatched an embassy officer to West Beirut to pick up Mr. Jacobsen.

It is now apparent that persistent U.S. efforts to establish contact with Iran and subsequent public speculation regarding these contacts have probably exacerbated the power struggle in Iran between pragmatic elements (led by Rafsanjani) and more radical factions (under the overall sponsorship of Ayatollah Montazeri). In late October, radical supporters (of Montazeri) revealed the (Rafsanjani) contact with the USG and the terms of the contact. In order to defend himself against charges of colluding with the USG and to preserve a degree of latitude for both parties, Majlis Speaker Rafsanjani provided a purposely distorted version of the May 1986 McFarlane mission in his November 4 address to the masses. Moderate Iranian political leaders apparently now feel constrained to settle their internal political problems before proceeding with the U.S. relationship. The revelations in Tehran regarding the McFarlane mission are demonstrable evidence of the internal power struggle. The October 1986 arrest of radical leader Mehdi Hashemi, a close confidant and son in-law of Ayatollah Montezari, for acts of terrorism and treason has caused further internal conflict.

Resolution of the Lebanon hostage situation is also complicated by waning Iranian influence in Lebanon due in part to financial constraints and the fact that the Libyans are expanding their

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contacts with more radical Hizballah elements. [redacted]

On November 7, the day after a meeting with U.S. officials, Iranian government authorities arrested six other individuals involved in radical activities. Among the two were senior military officers and a Majlis deputy (Ahmad Kashani), the grandson of Ayatollah Kashani, a conspirator in the 1949 attempt against the Shah.

Despite these internal difficulties and attendant publicity in the Western media, the Iranians continue to maintain direct contact with the USG and met again in Geneva on November 9-10, with NSC and CIA representatives. [redacted] the two principal Iranian contacts continue to communicate with the U.S. [redacted] the Iranians still intend to deliver the T-72 tank [redacted] "positive statement" will be made in the near future by Rafsanjani. [redacted] Both [redacted] have warned that further disclosures could harm them personally and the longer-term interests of the two countries.

It is important to note that since the initiation of the USG contact with Iran there has been no evidence of Iranian government complicity in acts of terrorism against the U.S. We do not know who seized the last three American hostages in Beirut (Messrs. Reed, Cicippio, and Tracy). The Islamic Jihad Organization (IJO) has disclaimed responsibility -- as have our Iranian interlocutors. [redacted] It is possible that these three Americans were kidnapped at the direction of Iranian radicals

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loyal to the now imprisoned Mehdi Hashemi. If so, this could be an effort to undermine the nascent U.S.-Iranian strategic dialogue and exacerbate the internal Iranian power struggle against the pragmatic faction with which we have been in contact.

Throughout this process, the USG has acted within the limits of established policy and in compliance with all U.S. law. The shipment of 2,008 U.S. TOWs and 235 HAWK missile electronic spare parts was undertaken within the provisions of a Covert Action Finding.

During the course of this operation -- and before -- the U.S. was cognizant of only three shipments from Israel to Iran. Specifically:

-- The Israelis acknowledged the August 1985 shipment of 508 TOWs after it had taken place. Until we were advised by the Israelis, and had the information subsequently confirmed by Iranian authorities, we were unaware of the composition of the shipment. We subsequently agreed to replace these TOWs in May of 1986.

-- The November 1985 shipment of 18 Israeli HAWK missiles was not an authorized exception to policy. This shipment was retrieved in February 1986 as a consequence of U.S. intervention.

-- The October 1986 shipment of 500 TOWs from Israel to Iran was undertaken with U.S. acquiescence. These TOWs were replaced on November 7.

In support of this Finding and at the direction of the President, the CIA provided the following operational assistance:

-- CIA communications officers and an annuitant to assist in various phases of the operation.

-- Sterile overseas bank accounts for financial transactions.

-- A secure transhipment point for the dispatch of U.S. military items from the U.S.

-- Transhipment of military items from the U.S. to Israel.

-- Communications and intelligence support for the meetings with Iranian officials and the McFarlane trip to Tehran in May.

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-- Cleared meeting sites in Europe for meetings with Iranian officials.

-- Fabricated and alias documentation for U.S. and foreign officials for meetings in Europe and Tehran.

The weapons and materiel provided under this program were judged to be inadequate to alter either the balance of military power or the outcome of the war with Iraq. They have, however, demonstrated the U.S. commitment to Iranian territorial integrity and served to support those in Iran interested in opening a strategic relationship with the U.S. U.S. efforts over the last 18 months have had tangible results on Iranian policy:

-- The Rafsanjani/Velayati intervention on behalf of the TWA #847 passengers (June 1985).

-- Iranian direction that the hijacked Pan Am #73 would not be received in Iranian territory if it left Karachi.

-- [redacted]

-- The release of three American and at least two French hostages.

-- The initiation of an Iranian dialogue with their regional neighbors.

-- Continued delay in the Iranian "final offensive."

Finally, it must also be noted that the U.S. arms embargo notwithstanding, West European nations have provided $500 million a year in military equipment to Iran. Most of these transfers were accomplished with government knowledge and/or acquiescence.

All appropriate Cabinet Officers have been apprised throughout. The Congress was not briefed on the covert action Finding due to the extraordinary sensitivity of our Iranian contacts and the potential consequences for our strategic position in Southwest Asia. Finally, our efforts to achieve the release of the hostages in Lebanon must continue to rely on discreet contacts and intermediaries who cannot perform if they are revealed.

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CJC notes & miscellaneous
& NSC document

<harris>chuck

EXHIBIT
CJC-14

## CJC NOTES OF DISCUSSION AMONG McFARLANE, AG MEESE, & CJC
(11/21/86)

On November 21, 1986, Attorney General Meese and Assistant Attorney General Cooper interviewed Robert McFarlane concerning events surrounding recent contacts with certain elements of the Iranian government. The interview took place in the AG's office.

The AG opened the interview by explaining that the President had asked him to develop an accurate and complete account of the facts relating to the Iranian contacts. The AG briefly summarized his understanding of the major events in the chronology of these events and asked McFarlane to describe, to the best of his recollection, all events relating to contacts with Iran, with particular emphasis on anything having to do with American military supplies or weapons.

McFarlane (hereinafter referred to as "M") stated that his first contact on this issue came on July 3, 1985, when Kimche, Eli Rubenstein, and perhaps others from Israel met with M in the latter's office. M also noted that Kimche phoned M on July 30 to set up an August meeting on this subject. On August 2, 1985, Kimche (who is Director-General of the Israel Foreign Ministry) met with M in Washington. At the July 3, 1985 meeting, Kimche advised M that Kimche had been contacted by an Iranian representing elements of the Iranian government seeking change in Iranian policy toward the United States and interested in establishing renewed and cooperative contacts with the U.S.A. These elements of the Iranian government recognized that their country's economy was declining, and that the Soviets were attempting or likely to attempt to exploit the situation. These elements believed that the fundamentalist drive was bad. Kimche believed that his Iranian contacts were legitimate and credible because they had taken certain risks to prove their bona fides. Kimche believed that these elements of the Iranian government might be able to influence the captors of the hostages, but a quid pro quo in terms of military support would eventually be necessary.

In mid-July, around the 13th, M briefed the President, along with Don Regan, at the hospital.

At the August 2, 1985, meeting M told Kimche that the President was interested in establishing a dialogue with these elements of the Iranian government, but was cautious regarding any transfer of arms. M advised Kimche that the President might be willing to provide such support at a later date, after we had become better acquainted with the intentions and good faith of these elements in Iran, and after we had become satisfied with the firmness of their asserted opposition to terrorism. The

[redacted] Released on 23 June 1987
under provisions of E.O. 12356
By B. Reger, National Security Council

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(1276)

CJC-14

President was not willing, however, to provide any such support at that time.

11/21/86 — McFarlane - AG - CJC

AG - need the facts - total chronology.
AG recaps
1st contact by Kimche -

M. - July 3 - M, K, others from Isr. ([redacted]) met re this.
in M's office
July 30 - Kimche phones M. to set up Aug meet.
Aug. 2 - K, M meet in Wash.
(K - director-gen. of For. Minister)

K. said Iranian made contacts w/ K., + rep'd elements of Iran seeking chg in policy + int'ed in establ'ing contact w/ U.S. Iran's econ. declining, Soviets on border, etc etc. Fundamentalist drive bad, they said.

mid-July: (18th?) M. briefed P. in hosp. w/ Don Regan.

K. thought the Iranians were legit bc/ had taken risks to prove their b.f.

K. said a q.p.q. in terms of military support would eventually be necessary.

~~no mention of weapons till 2d meeting.~~

The Iranians might be able to influence hostage situation

Aug 2 - M told K that Pres. int'd in dialogue, but cautious re any weapons -- maybe at some pt later, but not now. - K understood, but suggested that Is. provide arms. Is its

EXHIBIT
GJC-15

would be further (M suspected Isr. had already).
K mentioned replenishmt; M said no diff. from direct U.S. → Iran. – only Rabin, & Peres aware of chat, not [redacted]. No partic. type of arms mentioned.
M: acknowledged that Isr. would later be able

M. Ledeen – periodically would tell M. that he was going somewhere (Is.) & should he rept if Is had contacts w/ Ir. – M said of course.

after 2nd K-M meeting Ledeen gave M confirmatory info re Isr / Iran channel.

M thinks he talked w/ G. Schultz in July or Aug. re these matters – Pres. remembers meeting w/ Family Group in hosp. – or in residence – P in pajamas.

M. doubts that Pres called [redacted] when Weir released.

N. may have talked w/ [redacted] at about that time.
M. knows of no arms talks between N & [redacted].

M. guesses he learned of 508 Tows from Ledeen.
M briefed P. – Cap., G.S., Casey, present, M thinks. At time M. told it was 400± Tows.
M. says arms to Ir. bad idea.

that it hadn't worked out that way (all hostages).
N. issue of Arms E.C.A. came up; b/c we weren't providing arms directly to Iran (per E.O.) - clear that must report direct transfer. No one mentioned that Is → Ir. arms would vio. A.E.C.A.

M. knows of no one in U.S.G. who had contact w/ Is. re transfer of 508 TOWS.

Dec. 7 - W.H. meeting. - afterwards M, N, went to London + met w/ K, Ghorbanifar (?), who described his associates. Said they were vulnerable, needed arms to reach out to military f. their support. - no mention of kind of arms - M said no arms.

Nov. - Hawks -
M thinks he first learned of it when briefed for trip to Iran in May.

Iran sent back Hawks b/c couldn't reach hi-altitude bomber.

N. briefed M - he was action-officer on this beginning Oct or Nov.

Nov. 16 or 17 At summit in Geneva learned that Isr. had shipped oil equipment. Rabin called from N.Y. & said they have a problem w/ shipment to Iran. M asked N to assist. N rept'd back that Isr. hit snag in customs in [redacted], & that it may take a call to Prime Min'r – a couple of days later he talked w/ I – M. said it was an important project & would appreciate his assistance. M. remembers no mention in all this of arms.

M. didn't know this involved procuring a plane; doesn't remember chat w/ G.S., but probably had one.

between Thanks
+ Dec 4 -- K visits Wash. to urge M. not to resign. (which had been rumored). M said U.S. int'l – polit. meeting/ -- M doesn't remember talk re TOWs, or other arms, but if was, M reaffirm our refusal.

Dec. 7 – M said we should [redacted] provide arms
no talk re problem w/ arms already given by Isr.

Then M, N. went to London.
No recall of talk w/ N re resolution of [redacted] problem.
M. now asks "was CIA involved," (in Nov. matter cor)

Dec. London meeting - Iranian said need arms to strengthen his associates. - M said no can do. -.

separate meeting just w/ K. +N - said disturbed about TOWs - can't approve it.

M briefed P. upon return - recommended that we not do business w/ this Iranian - shady, no training, was not looking at our larger scope, but just arms.

No one in London suggested link between the 508 TOWS + Weir's release.

G.S. came to M. cabin in Oct. weekend before 24th + M suggested that he was thinking of resigning - —M. told P. in late Nov. - Resigned Dec. 4., effective end of month.

Dec. 11. - M reported the London meeting to Pres.

No decision by USG to go forward w/ an arms relationship w/ Ir. when M. left.

M. came back in a tpr. to be contact w/ Iran in May - was made aware of Finding in April. Was made aware of arms angle in phone calls from Poin. or N. when he

[redacted]

go. to Iran — ~~[illegible]~~
On plane to Iran, N (?) told ~~to~~ M nitty-gritty of arms transfers, but no details re replenishment, etc. M expressed dismay;
The hostages were

George Cave was along on trip: interpreter
[redacted]

M. flew on charter plane – Ramstein(?) – got on new plane to Tel Aviv → then got on cargo 707 to T 'an. – None were U.S military planes
Had a , but no Bible. – N. brought the cake.
There 4 days.

2 CIA communicators were along.

Iranians upped the ante for release of ~~K~~ Kuwaitis.
M said they were in bad faith, b/c welsh on deal.

deal was all hostages (when M arrived) ~~for~~ for 3 shipments of materi.
(had spare Hawk ~~[illegible]~~ parts w/ him)?

Noshiri? Rafsanjani's [redacted]. met w/ M on last day.
~~[illegible]~~

[redacted]

M reported the trip -- & said we should have nothing further to do w/ them. Wait on them to come to us.

Iran took the parts, wouldn't give them back.

George Cave

Cap. opposed replacing 508 Tows - ~~[illegible]~~ M didn't oppose.

## EXHIBIT CJC-16

UNCLASSIFIED

3100

11/20/86 — A.G., G.S., Hill, CJC

EXHIBIT
CJC-16

Partially Declassified/Released on 23 June 1987
under provisions of E.O. 12356
by B. Reger, National Security Council

2278

A.G.: Nov. - ~~Hawk~~ episode

during Geneva summit - after 2d day's meeting (18th ~~[illegible]~~ M. came to G.S. hotel & said that a complex deal was underway -- shipment of arms (may have said Hawks) would go to Isr. on assumption that hostages would be released. The Iranians would know what was on board of the plane, but

Hill: M said plane would go from Isr to [redacted], if hostages released it would go to Iran, if not, back to Isr. (we would be advised through [redacted] that hostages released).

G.S. said very bad idea, didn't think it would work. — G.S. was consulted, not for approval. G.S. thought it didn't happen, b/c no hostages released.

Was to not provide any arms until hostages were released.

G.S. told ~~[illegible]~~ around Thanksgiving that it hadn't worked out, & whole thing shut down - & G.S. heaved sigh of ~~[illegible]~~ relief.

UNCLASSIFIED

A.G. - recall, vaguely that the plan ~~[illegible]~~ described, perhaps at Jan 7 mee

G.S.: Thurs. night - G.S. went to ~~[illegible]~~ W.H. - recall the

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3100

11/20/86 – A.G., G.S., Hill, CJC

A.G: Nov. – Hawk episode

during Geneva summit – after 2d day's meeting (18th ~~85~~ M. came to G.S. hotel + said that a complex deal was underway -- shipment of arms (may have said Hawks) would go to Isr. on assumption that hostages would be released. The Iranians would know what was on board of the plane, but

Hill: M said plane would go from Isr to [redacted], if hostages released it would go to Iran; if not, back to Isr. (we would be advised through [redacted] that hostages released).

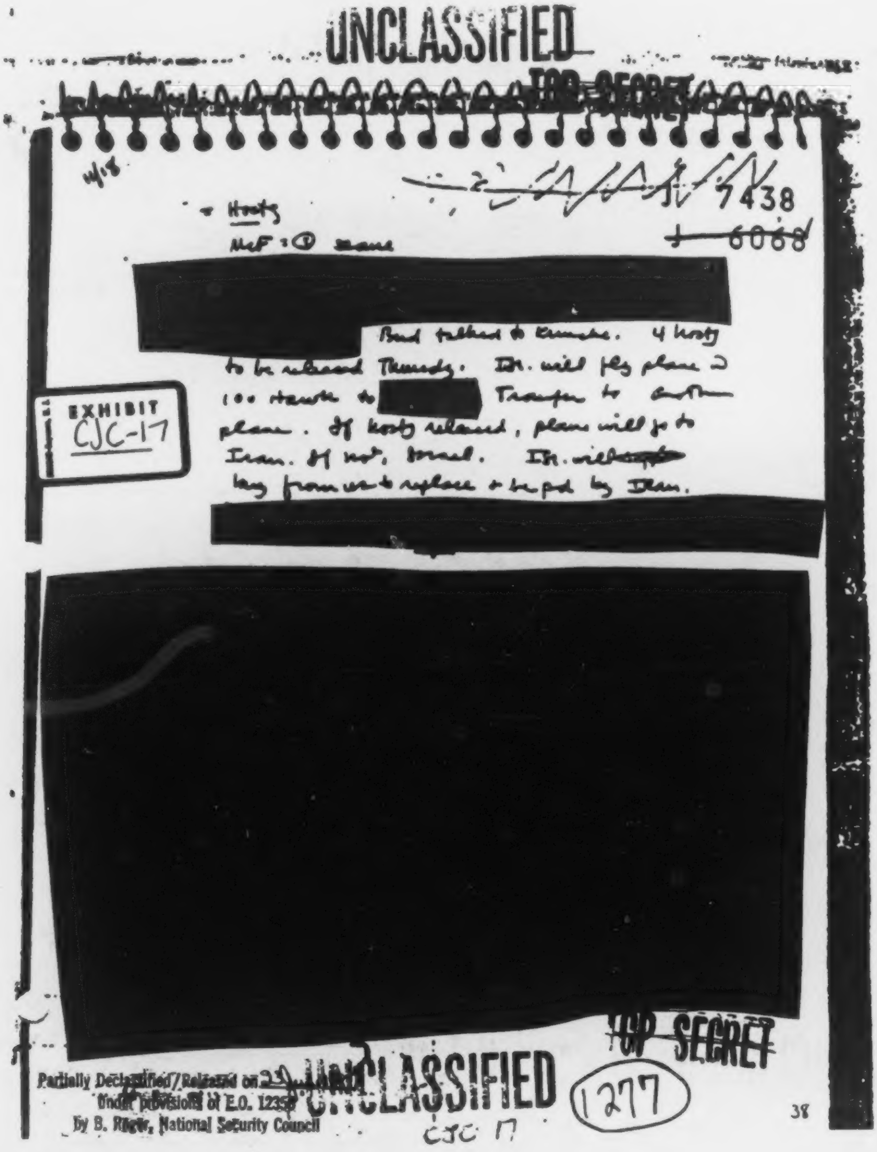
G.S. said very bad idea, didn't think it would work. – G.S. was consulted, not for approval. G.S. thought it didn't happen, b/c no hostages released.

G.S. told ~~[illegible]~~ around Thanksgiving that it hadn't worked out, + whole thing shut down – + G.S. heaved sigh of ~~[illegible]~~ relief.

(Was /HA not provide any [illegible] until, i.e. hostages were released.

UNCLASSIFIED A.G. – recall ~~[illegible]~~ vaguely that the plan described, perhaps at Jan 7 [illegible] [redacted]

## Exhibit CJC–17



UNCLASSIFIED

~~TOP SECRET~~

EXHIBIT
CJC-17

4/18

~~2~~ 7438
~~1 6068~~

• Hostg

McF: ① same

[redacted]

Bud talked to Kimche. 4 hostg to be released Thursdy. Isr. will fly plane w/ 100 Hawks to [redacted] Transfer to another plane. If hostg released, plane will go to Iran. If not, Israel. Isr. will buy from us to replace & be pd by Iran.

[redacted]

[redacted]

~~TOP SECRET~~

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Under provisions of E.O. 12356
by B. Reger, National Security Council

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1277

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CJC 17

EXHIBIT CJC–18

5105

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EXHIBIT
CJC-18

11/22/86 - Sporkin, AG, CJC

2 aspects

sometime in '85

(1) [redacted] ct. ~~of couple~~ Isr. + Iranian - N wanted [redacted] to find out to what they could + planned to do. - at Madison Hotel
not K, probably arms dealer

McMahon (around Nov - Dec 85) - sends to Sporkin (two guys from operations div. who rep't - Ed Dietel (Dep G.C.) was there. - told of arms shipment + transportation - Sporkin said need finding; drafted one + told McMahon that it should be used -- F. had in it something that would purport to ratify anything that had already been done

Can't remember who they were

- thinks it was something to facilitate arms transfer -- planeload of some kinds of arms going to, he thinks, Iran - can't recall if Isr.

1273
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by B. Reger, National Security Council

Jan. 5 86

Friday evening called by N. + wanted to talk w/ him (Sporkin advised Casey + Casey said it was OK to see N. Sporkin rev'd draft finding + made some suggest
Sp. + N. met w/ Casey at his home, went over F.; Sporkin suggested that F. should refer to hostage situation

around Sunday

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(N. said not insist b/c G.S. objected) + Sp. said it should be in F. if it is part of the operation. Reference added re hostage situat

Prior to this, a F. on [illegible] a covert mission Libya had a draft reference re not reporting to Cong. - was deleted b/c P. thought sor members should be informed.

Jan. 16 - meeting in Dir. office - Cap, Casey, Sp., A.G., -- discussion re la [redacted] opinion; Cap was uncertain + wanted t do more research - next day ~~[illegible]~~ Cap apparently advised Casey that the legal analysis was sound.

Sp. recalls that there was concern re the dange to hostages if this disclosed prematurely; + the Cong. would be told ASA it could consist w/ safety of hostages. They also assumed tha the hostage matter would be resolved very rapidly. ASA hostages in friendly terri, Cong would be told of entire matter.

after F - around early Feb. meeting in Sit. Room, N, Gen. Secord, Sp. to discuss a London meeting - never came

Sp. left govt on Feb. 9

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Back to Nov – Sporkin did draft ~~#~~ F. + discussed with McM. – told him that CIA can't do this deal w/o F. --
In chat w/ 2 ops guys the issue of 'hostages' were mentioned + the draft F makes ref. to this aspect of the intel. op.

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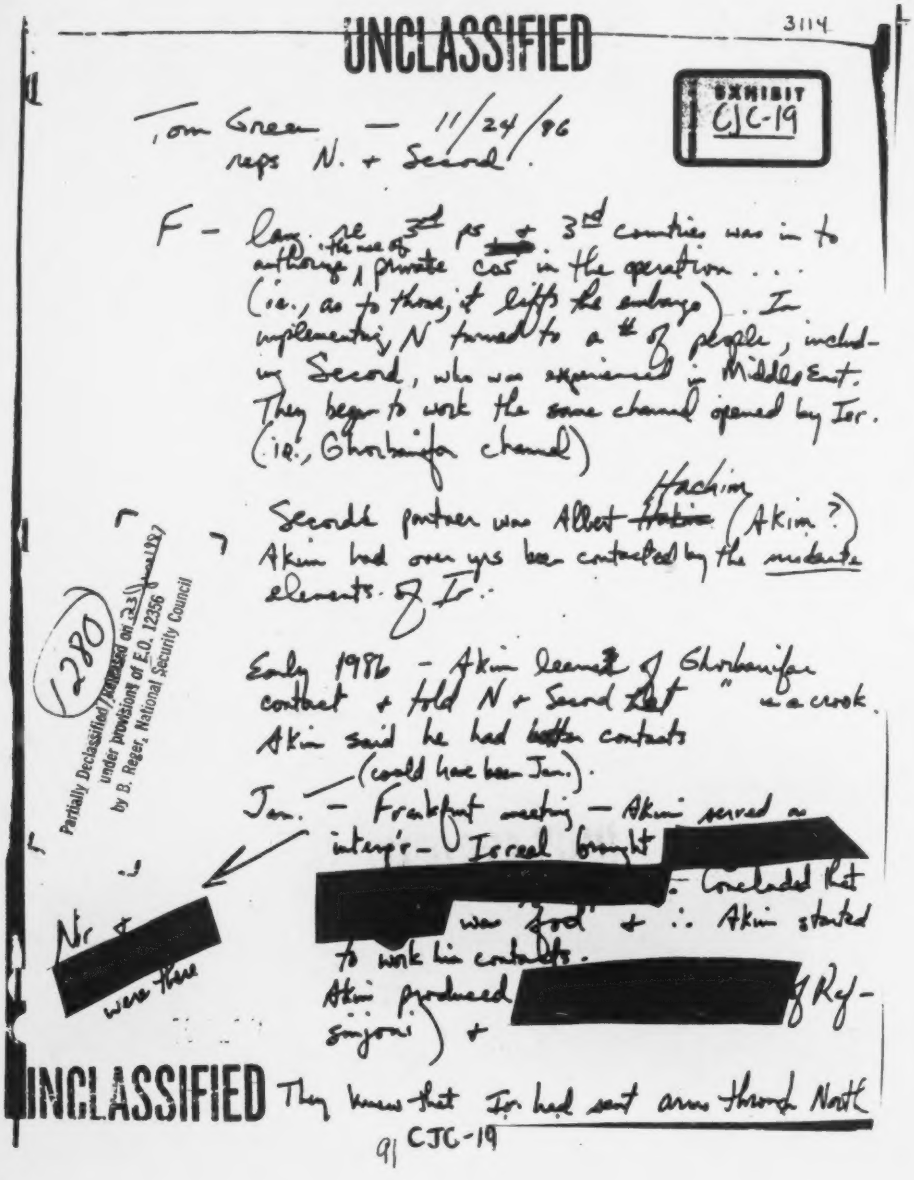
3108

11/22/86 Dave Dougherty, Ed Dietel, CJR, J.M

## EXHIBIT CJC-19



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3114

EXHIBIT
CJC-19

Tom Green — 11/24/86
reps N. + Secord.

F – law re 3rd prs + 3rd countries was in to authorize the use of private cos in the operation . . . (i.e., as to those, it lifts the embargo). In implementing, N turned to a # of people, including Secord, who was experienced in Middle East. They began to work the same channel opened by Isr. (i.e., Ghorbanifar channel)

Secord's partner was Albert ~~Hakim~~ Hachim (Akim?)
Akim had over yrs been contacted by the moderate elements of Ir.

Early 1986 – Akim learned of Ghorbanifar contact + told N + Secord that " is a crook. Akim said he had better contacts
(could have been Jan.).
Jan. – Frankfurt meeting – Akim served as interp'r – Israel brought [redacted] – Concluded that [redacted] was 'good' + ∴ Akim started to work his contacts.
Akim produced [redacted] of Ref-sanjani) +

Nr + [redacted] were there

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(1280)

UNCLASSIFIED They knew that Ir. had sent arms through North

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– Hakim ~~[illegible]~~ regime [illegible] Iranians, in order to foster this relationship & to show them some goodies,

~~[illegible]~~ we said that the Iranians should make a contribution over purchase price of goods for use of Contras or of us (He probably ~~[illegible]~~ said U.S.G. was desirous

Feb. shipmt. of TOWS was priced on this basis That $ routed through Israels into Akim's financial network. He, in his private capacity, routed $ into other accts (belonging to foreigners).

But for Akim this policy could not have been effectuated

Same thing happened again in May.

Green says none of this vio'd law.

No U.S. $ involved here -- Only Iranians making contribution.

They feel like they were doing Lord's work - worked like dogs -- gave thought to laws & believed they were not vio'ing any laws.

If this blows up, Ir. will kill one or more of the hostages -- to say U.S. is assholes.

[redacted] will also probably be killed

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5116

Green doesn't think this vio.s the Boland Amendment

Ghorbanifar had a role in Feb. deal.

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EXHIBIT CJC-20

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3057

AECA may be inapplicable if the Sept '85 & Oct 86 transfers from Is → Iran were effectively ~~to~~ transfers from U.S. → Iran, w/ Is as a conduit (i.e. TOWs are fungible; Is gives Iran 500 TOWs b/c we promise to replenish -- ∴ Isreal is our creditor, but we are transferor & Iran is transferee.

[Then question becomes was CIA involved in these transfers. If so re Oct '86, that's OK b/c there was a written finding in effect, authorizing CIA to conduct the operation. If so, re Sept. 85 no written finding, so question becomes was there (can there be?) an oral finding. Does OLC memo re destabilization have merit?
If CIA not involved in Sept '85, then question is whether NSC (or whoever conducted the operation) has auth'y to do so. (operation may have been no more than saying "do it" to Is).]

If AECA applies to the items that Isreal transferred to Iran, question is how did Is. get items — direct sale from U.S. or through licensed intermediary — also did they get them on credit, thus invoking the Foreign Assist. Act's reporting requirements.

(1281)

UNCLASSIFIED [redacted]/Released on 23 June 1987
under provisions of E.O. 12356

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EXHIBIT CJC-21

U.S. Department of Justice
Office of Legal Counsel
December 17, 1986

Office of the
Assistant Attorney General

Washington, D.C. 20530

MEMORANDUM FOR THE ATTORNEY GENERAL

Re: The President's Compliance with the "Timely Notification" Requirement of Section 501(b) of the National Security Act

This memorandum responds to your request that this Office review the legality of the President's decision to postpone notifying Congress of a recent series of actions that he took with respect to Iran. As we understand the facts, the President has, for the past several months, been pursuing a multifaceted secret diplomatic effort aimed at bringing about better relations between the United States and Iran (partly because of the general strategic importance of that country and partly to help end the Iran-Iraq war on terms favorable to our interests in the region); at obtaining intelligence about political conditions within Iran; and at encouraging Iranian steps that might facilitate the release of American hostages being held in Lebanon. It is our understanding that the President, in an effort to achieve these goals, instructed his staff to make secret contacts with elements of the Iranian government who favored closer relations with the United States; that limited quantities of defensive arms were provided to Iran; that these arms shipments were intended to increase the political influence of the Iranian elements who shared our interest in closer relations between the two countries and to demonstrate our good faith; and that there was hope that the limited arms shipments would encourage the Iranians to provide our government with useful intelligence about Iran and to assist our efforts to free the Americans being held captive in Lebanon.

On these facts, we conclude that the President was within his authority in maintaining the secrecy of this sensitive diplomatic initiative from Congress until such time as he believed that disclosure to Congress would not interfere with the success of the operation.

As we indicated in our memorandum of November 14, 1986, section 501 of the National Security Act permits the President to

[redacted]

CJC-21

withhold prior notification of covert operations from Congress, subject to the requirements that he inform congressional committees of the operations "in a timely fashion," and that he give a statement of reasons for not having provided prior notice. We now conclude that the vague phrase "in a timely fashion" should be construed to leave the President wide discretion to choose a reasonable moment for notifying Congress. This discretion, which is rooted at least as firmly in the President's constitutional authority and duties as in the terms of any statute, must be especially broad in the case of a delicate and ongoing operation whose chances for success could be diminished as much by disclosure while it was being conducted as by disclosure prior to its being undertaken. Thus, the statutory allowance for withholding prior notification supports an interpretation of the "timely fashion" language, consistent with the President's constitutional independence and authority in the field of foreign relations, to withhold information about a secret diplomatic undertaking until such a project has progressed to a point where its disclosure will not threaten its success.[1]

## I. The President's Inherent Constitutional Powers Authorize a Wide Range of Unilateral Covert Actions in the Field of Foreign Affairs

### A. The President Possesses Inherent and Plenary Constitutional Authority in the Field of International Relations

"The executive Power shall be vested in a President of the United States of America." U.S. Const. art. II, sec. 1. This is the principal textual source for the President's wide and inherent discretion to act for the nation in foreign affairs.[2] The clause has long been held to confer on the President plenary authority to represent the United States and to pursue its interests outside the borders of the country, subject only to limits specifically set forth in the Constitution itself and to such statutory limitations as the Constitution permits Congress to impose by exercising one of its enumerated powers. The President's executive power includes, at a minimum, all the discretion traditionally available to any sovereign in its external relations, except insofar as the Constitution places that discretion in another branch of the government.

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[1] The vagueness of the phrase "in a timely fashion," together with the relatively amorphous nature of the President's inherent authority in the field of foreign relations, necessarily leaves room for some dispute about the strength of the President's legal position in withholding information about the Iranian project from Congress over a period of several months. The remainder of this memorandum outlines the legal support for the President's position, and does not attempt to provide a comprehensive analysis of all the arguments and authorities on both sides of the question. This caveat, which does not alter the conclusion stated in the accompanying text, reflects the urgent time pressures under which this memorandum was prepared.

Before the Constitution was ratified, Alexander Hamilton explained in The Federalist why the President's executive power would include the conduct of foreign policy: "The essence of the legislative authority is to enact laws, or, in other words to prescribe rules for the regulation of the society; while the execution of the laws and the employment of the common strength, either for this purpose or for the common defense, seem to comprise all the functions of the executive magistrate."[3] This fundamental distinction between "prescribing rules for the regulation of the society" and "employing the common strength for the common defense" explains why the Constitution gave to Congress only those powers in the area of foreign affairs that directly involve the exercise of legal authority over American citizens.[4] As to other matters in which the nation acts as a sovereign entity in relation to outsiders, the Constitution delegates the necessary authority to the President in the form of the "executive Power."[5]

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[2] The Constitution also makes the President Commander in Chief of the armed forces (Art. II, sec. 2); gives him power to make treaties and appoint ambassadors, subject to the advice and consent of the Senate (Art. II, sec. 2), and to receive ambassadors and other public ministers (Art. II, sec. 3); the Constitution also requires that the President "take Care that the Laws be faithfully executed" (Art. II, sec. 3). These specific grants of authority supplement, and to some extent clarify, the discretion given to the President by the Executive Power Clause.

[3] The Federalist No. 75, at 450 (A. Hamilton) (C. Rossiter ed. 1961). This number of the The Federalist was devoted primarily to explaining why the power of making treaties is partly legislative and partly executive in nature, so that it made sense to require the cooperation of the President and the Senate in that special case.

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[4] Congress's power "[t]o declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water," art. I, sec. 8, cl. 11, like the power "[t]o define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations," art. I, sec. 8, cl 10, and the power "[t]o regulate Commerce with foreign Nations," art. I, sec. 8, cl. 3, reflects the fact that the United States is, because of its geographical position, necessarily a nation in which a significant number of citizens will engage in international commerce. A declaration of war immediately alters the legal climate for Americans engaged in foreign trade and is therefore properly treated as a legislative act necessarily binding on an important section of the private citizenry. Similarly, Congress's broad power over the establishment and maintenance of the armed forces, art. I, sec. 8, cls. 12-16, reflects their obviously important domestic effects. In accord with Hamilton's distinction, however, the actual command of the armed forces is given to the President in his role as Commander in Chief. Treaties (in whose making the Senate participates under art. II, sec. 2) have binding legal effect within our borders, and are most notable for the significantly small role that Congress plays.

The presumptively exclusive authority of the President in foreign affairs was asserted at the outset by George Washington and acknowledged by the First Congress. Without consulting Congress, President Washington determined that the United States would remain impartial in the war between France and Great

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[5] As one would expect in a situation dealing with implied constitutional powers, argument and authority can be mustered for the proposition that Congress was intended to have a significant share of the foreign policy powers not specifically delegated by the Constitution. Perhaps the most oft-cited authority for this position is James Madison's "Helvidius Letters" (reprinted in part in E. Corwin, *The President's Control of Foreign Relations* 16-27 (1917)), where he cautioned against construing the President's executive power so broadly as to reduce Congress's power to declare war to a mere formality. Madison's argument was directed principally at countering some overstatements made by Alexander Hamilton in his "Pacificus Letters" (reprinted in part in E. Corwin, *supra*, at 8-15); Madison's argument is *not* properly interpreted to imply that Congress has as great a role to play in setting policy in foreign affairs as in domestic matters. Even Jefferson, who was generally disinclined to acknowledge implied powers in the federal government or in the President, wrote: "The transaction of business with foreign nations is executive altogether; it belongs, then, to the head of that department, except as to such portions of it as are specially submitted to the senate. Exceptions are to be construed strictly. . . ." 5 *Writings of Thomas Jefferson* 161 (Ford ed. 1895). While we agree that Congress has some powers to curb a President who persistently pursued a foreign policy that Congress felt was seriously undermining the national interest, especially in cases where Congress's constitutional authority to declare war was implicated, well-settled historical practice and legal precedents have confirmed the President's dominant role in formulating, as well as in carrying out, the nation's foreign policy.

Britain.[6] Similarly, the First Congress itself acknowledged the breadth of the executive power in foreign affairs when it established what is now the Department of State. In creating this executive department, Congress directed the department's head (i.e. the person now called the Secretary of State) to carry out certain specific tasks when entrusted to him by the President, as well as "such other matters respecting foreign affairs, as the President of the United States shall assign to the said department."[7] Just as the first President and the first Congress recognized that the executive function contained all the residual power to conduct foreign policy that was not otherwise delegated by the Constitution, subsequent historical practice has generally confirmed the President's primacy in formulating and carrying out American foreign policy.[8]

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[6] Proclamation of the President, April 22, 1793, *reprinted in* 1 *Messages and Papers of the Presidents* 156-157 (J. Richardson ed. 1896). President Washington also warned that his Administration would pursue criminal prosecutions for violations of his neutrality proclamation. Although such prosecutions were upheld at the time, a rule that would prohibit such prosecutions was recognized by the Supreme Court relatively soon thereafter. Compare *Henfield's Case*, 11 F. Cas. 1099, 1102 (C.C.D. Pa. 1793) (No. 6,360) (Jay, C.J.), with *United States v. Hudson & Goodwin*, 11 U.S. (7 Cranch) 32 (1812). It is worth emphasizing that Presidents have sometimes encountered constitutional obstacles when attempting to pursue foreign policy goals through actions in the domestic arena, but have rarely been interfered with in taking diplomatic steps, or even military actions short of war, outside our borders. The present significance of President Washington's proclamation has less to do with the particular actions he might have taken in the domestic sphere than with his claim that *foreign* affairs are generally within the constitutional domain assigned to the Executive. This claim is consistent with the Constitution and has now been reinforced by long historical practice.

[7] Act of July 27, 1789, 1 Stat. 28-29. See also Act of Jan. 30, 1799, 1 Stat. 613 (similar provision currently codified at 18 U.S.C. 953), which made it a crime for any person to attempt to influence the conduct of foreign nations with respect to a controversy with the United States.

The Supreme Court, too, has recognized the President's broad discretion to act on his own initiative in the field of foreign affairs. In the leading case, *United States v. Curtiss-Wright Export Corp.*, 299 U.S. 304 (1936), the Court drew a sharp distinction between the President's relatively limited inherent powers to act in the domestic sphere and his far-reaching discretion to act on his own authority in managing the external relations of the country. The Supreme Court emphatically declared that this discretion derives from the Constitution itself and that congressional efforts to act in this area must be evaluated in the light of the President's constitutional ascendancy:

> It is important to bear in mind that we are here dealing not alone with an authority vested in the President by an exertion of legislative power, but with such an authority *plus* the very delicate, plenary and exclusive power of the President as the *sole* organ of the federal government in the field of international relations--*a power which does not require as a basis for its exercise an act of Congress*, but which, of course, like every other governmental power, must be

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[8] The fact that Presidents have often asked Congress to give them specific statutory authority to take action in foreign affairs may reflect a practical spirit of courtesy and compromise rather than any concession of an absence of inherent constitutional authority to proceed. For example, President Franklin Roosevelt requested that Congress repeal a provision of the Emergency Price Control Act that he felt was interfering with the war effort; he warned, however, that if Congress failed to act, he would proceed on the authority of his own office to take whatever measures were necessary to ensure the winning of the war. 88 Cong. Rec. 7044 (1942).

As one would expect, of course, Congress has not always accepted the most far-reaching assertions of presidential authority. See also *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952) (Constitution did not authorize President to take possession of and operate privately owned steel mills that had ceased producing strategically important materials during labor dispute); *id*. at 635 (Jackson, J., concurring) ("[The Constitution] enjoins upon [the government's] branches separateness but interdependence, autonomy but reciprocity. Presidential powers are not fixed but fluctuate, depending upon their disjunction or conjunction with those of Congress.").

exercised in subordination to the applicable provisions of the Constitution. It is quite apparent that if, in the maintenance of our international relations, embarrassment--perhaps serious embarrassment--is to be avoided and success for our aims achieved, congressional legislation which is to be made effective through negotiation and inquiry within the international field must often accord to the President a degree of discretion and freedom from statutory restriction which would not be admissible were domestic affairs alone involved. Moreover, he, not Congress, has the better opportunity of knowing the conditions which prevail in foreign countries, and especially is this true in time of war. He has *his* confidential sources of information. He has *his* agents in the form of diplomatic, consular and other officials. *Secrecy in respect of information gathered by them may be highly necessary, and the premature disclosure of it productive of harmful* *results*.[9]

Based on this analysis, the Supreme Court rejected the argument that Congress had improperly delegated a legislative function to the President when it authorized him to impose an embargo on arms going to an area of South America in which a war was taking place. The Court's holding hinged on the essential insight that the embargo statute's principal effect was merely to remove any question about the President's power to pursue his foreign policy objectives by enforcing the embargo *within* the borders of this country.[10] As the Court emphatically stated, the President's authority to act in the field of international relations is plenary, exclusive, and subject to no legal limitations save those derived from applicable provisions of the Constitution itself.[11] As the Court noted with obvious approval, the Senate Committee on Foreign Relations acknowledged this principle at an early date in our history:

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[9] 299 U.S. at 319-320 (emphasis added). See also *Chicago & Southern Air Lines v. Waterman S.S. Corp.*, 333 U.S. 103, 109 (1948) (President "posseses in his own right certain powers conferred by the Constitution on him as Commander-in-Chief and as the Nation's organ in foreign affairs"); *id*. at 109-112 (refusing to read literally a statute that seemed to require judicial review of a presidential decision taken pursuant to his discretion to make foreign policy); *id*. at 111 ("It would be intolerable that courts, without the relevant information, should review and perhaps nullify actions of the Executive taken on information properly held secret."), *quoted with approval in United States v. Nixon*, 418 U.S. 683, 710 (1974).

In *Perez v. Brownell*, 356 U.S. 44, 57 (1958) (citations omitted), the Court stated, "Although there is in the Constitution no specific grant to Congress of power to enact legislation for the effective regulation of foreign affairs, there can be no doubt of the existence of this power in the law-making organ of the Nation." The *Perez* Court, however, was reviewing the constitutionality of a statute in whose drafting the Executive Branch had played a role equivalent to one of Congress's own committees. 356 U.S. at 56. Furthermore, the statute at issue in *Perez* provided that an American national who voted in a political election of a foreign state would thereby lose his American nationality. If the President lacks the inherent constitutional authority to deprive an American of his nationality, then the *Perez* Court's language about congressional "regulation of foreign affairs" may refer only to "regulation of domestic affairs that affect foreign affairs." In any case, *Perez* should not be read to imply that Congress has broad legislative powers that can be used to diminish the President's inherent Article II discretion.

> "The President is the constitutional representative of the United States with regard to foreign nations. He manages our concerns with foreign nations and must necessarily be most competent to determine when, how, and upon what subjects negotiation may be urged with the greatest prospect of success. For his conduct he is responsible to the Constitution. The committee consider this responsibility the surest pledge for the faithful discharge of his duty. They think the interference of the Senate in the direction of foreign negotiations calculated to diminish that responsibility and thereby to impair the best security for the national safety. The nature of transactions with foreign nations, moreover, requires caution

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[10] See 299 U.S. at 327 (effect of various embargo acts was to confide to the President "an authority which was cognate to the conduct by him of the foreign relations of the government")(quoting Panama Refining Co. v. Ryan, 293 U.S. 388, 422 (1935) (emphasis added)). This implies that while the President may in some cases need enabling legislation in order to advance his foreign policy by controlling the activities of American citizens on American soil, he needs no such legislation for operations and negotiations outside our borders.

[11] Because the presidential action at issue in Curtiss-Wright was authorized by statute, the Court's statements as to the President's inherent powers could be, and have been, characterized as dicta. See, e.g., Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 635 n.2 (1952) (Jackson, J., concurring). We believe, however, that the Curtiss-Wright Court's broad view of the President's inherent powers was essential to its conclusion that Congress had not unconstitutionally delegated legislative authority to the President. Furthermore, the Supreme Court has since reaffirmed its strong commitment to the principle requiring the "utmost deference" to presidential responsibilities in the military and diplomatic areas. United States v. Nixon, 418 U.S. 683, 710 (1974).

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> and unity of design, and their success frequently depends on secrecy and dipatch."

299 U.S. at 319 (emphasis added) (quoting U.S. Senate, Reports, Committee on Foreign Relations, vol. 8, p. 24 (Feb. 15, 1816)). It follows inexorably from the Curtiss-Wright analysis that congressional legislation authorizing extraterritorial diplomatic and intelligence activities is superfluous, and that statutes infringing the President's inherent Article II authority would be unconstitutional.[12]

### B. Secret Diplomatic and Intelligence Missions Are at the Core of the President's Inherent Foreign Affairs Authority

The President's authority over foreign policy, precisely because its nature requires that it be wide and relatively unconfined by preexisting constraints, is inevitably somewhat ill-defined at the margins. Whatever questions may arise at the outer reaches of his power, however, the conduct of secret negotiations and intelligence operations lies at the very heart of the President's executive power. The Supreme Court has repeatedly so held in modern times. For example:

> Not only, as we have shown, is the federal power over external affairs in origin and essential character different from that over

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[12] See e.g., United States ex rel. Knauff v. Shaughnessy, 338 U.S. 537, 542 (1950) (citations omitted):

> The exclusion of aliens is a fundamental act of sovereignty. The right to do so stems not alone from legislative power but is inherent in the executive power to control the foreign affairs of the nation. When Congress prescribes a procedure concerning the admissibility of aliens, it is not dealing alone with a legislative power. It is implementing an inherent executive power.

See also Worthy v. Herter, 270 F.2d 905, 910-912 (D.C. Cir. 1959) (statute giving President authority to refuse to allow Americans to travel to foreign "trouble spots" simply reinforces the President's inherent constitutional authority to impose the same travel restrictions).

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> internal affairs, but participation in the exercise of the power is significantly limited. In this vast external realm, with its important, complicated, delicate and manifold problems, the President alone has the power to speak or listen as a representative of the nation. He makes treaties with the advice and consent of the Senate; but he alone negotiates. Into the field of negotiations the Senate cannot intrude; and Congress itself is powerless to invade it.

United States v. Curtiss-Wright Export Corp., 299 U.S. 304, 319 (1936) (emphasis in original). The Court has also, and more recently, emphasized that this core presidential function is by no means limited to matters directly involving treaties. In United States v. Nixon, 418 U.S. 683 (1974), the Court invoked the basic Curtiss-Wright distinction between the domestic and international contexts to explain its rejection of President Nixon's claim of an absolute privilege of confidentiality for all communications between him and his advisors. While rejecting this sweeping and undifferentiated claim of executive privilege as applied to communications involving domestic affairs, the Court repeatedly and emphatically stressed that military or diplomatic secrets are in a different category: such secrets are intimately linked to the President's Article II duties, where the "courts have traditionally shown the utmost deference to Presidential responsibilities." 418 U.S. at 710 (emphasis added).[13]

Such statements by the Supreme Court reflect an understanding of the President's function that is firmly rooted in the nature of his office as it was understood at the time the Constitution was adopted. John Jay, for example, offered a concise statement in The Federalist:

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[13] See also id. at 706 ("a claim of need to protect military, diplomatic, or sensitive national security secrets" would present a strong case for denying judicial power to make in camera inspections of confidential material); id. at 712 n.19 (recognizing "the President's interest in preserving state secrets").

Note also that the Curtiss-Wright Court expressly endorsed President Washington's refusal to provide the House of Representatives with information about treaty negotiations after the negotiations had been concluded. 299 U.S. at 320-321. A fortiori, such information could be withheld during the negotiations.

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> It seldom happens in the negotiation of treaties, of whatever nature, but that perfect secrecy and immediate dispatch are sometimes requisite. There are cases where the most useful intelligence may be obtained, if the persons possessing it can be relieved from apprehensions of discovery. Those apprehensions will operate on those persons whether they are actuated by mercenary or friendly motives; and there doubtless are many of both descriptions who would rely on the secrecy of the President, but who would not confide in that of the Senate, and still less in that of a large popular assembly. The convention have done well, therefore, in so disposing of the power of making treaties that although the President must in forming them, act by the advice and consent of the Senate, yet he will be able to manage the business of intelligence in such manner as prudence may suggest.
>
> . . . So often and so essentially have we heretofore suffered from the want of secrecy and dispatch that the Constitution would have been inexcusably defective if no attention had been paid to those objects. Those matters which in negotiations usually require the most secrecy and the most dispatch are those preparatory and auxiliary measures which are not otherwise important in a national view, than as they tend to facilitate the attainment of the objects of the negotiation.[14]

Jay's reference to treaties "of whatever nature" and his explicit discussion of intelligence operations make it clear that he was speaking, not of treaty negotiation in the narrow sense, but of the whole process of diplomacy and intelligence-gathering. The President's recent Iran project fits comfortably within the terms of Jay's discussion.

[14] The Federalist No. 64, at 392-393 (J. Jay) (C. Rossiter ed. 1961) (emphasis in original). Jay went on to note that "should any circumstance occur which requires the advice and consent of the Senate, he may at any time convene them." Id. at 393. Jay did not, however, suggest that the President would be obliged to seek such advice and consent for actions other than those specifically enumerated in the Constitution.

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### C. The President Has Inherent Authority to Take Steps to Protect the Lives of Americans Abroad

Perhaps the most important reason for giving the federal government the attributes of sovereignty in the international arena was to protect the interests and welfare of American citizens from the various threats that may be posed by foreign powers. This obvious and common sense proposition was confirmed and relied on by the Supreme Court when it held that every citizen of the United States has a constitutional right, based on the Privileges or Immunities Clause of the Fourteenth Amendment, "to demand the care and protection of the Federal government over his life, liberty, and property when on the high seas or within the jurisdiction of a foreign government."[15] Accordingly, the Supreme Court has repeatedly intimated that the President has inherent authority to protect Americans and their property abroad by whatever means, short of war, he may find necessary.

An early judicial recognition of the President's authority to take decisive action to protect Americans abroad came during a mid-nineteenth century revolution in Nicaragua. On the orders of the President, the commander of a naval gunship bombarded a town where a revolutionary government had engaged in violence against American citizens and their property. In a later civil action against the naval commander for damages resulting from the bombardment, Justice Nelson of the Supreme Court held that the action could not be maintained:

> As the executive head of the nation, the president is made the only legitimate organ of the general government, to open and carry on correspondence or negotiations with foreign nations, in matters concerning the interests of the country or of its citizens. It is to him, also, the citizens abroad must look for protection of person and of property, and for the faithful execution of the laws existing and intended for their protection. For this purpose, the whole executive power of the country is placed in his hands, under the constitution, and the laws passed in pursuance thereof . . . .
>
> Now, as it respects the interposition of the executive abroad, for the protection of the lives or property of the citizen, the

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[15] Slaughter-House Cases, 83 U.S. (16 Wall.) 36, 79 (1873).

> *duty must, of necessity, rest in the discretion of the president*. Acts of lawless violence, or of threatened violence to the citizen or his property, cannot be anticipated and provided for; and the protection, to be effectual or of any avail, may, not infrequently, require the most prompt and decided action. Under our system of government, *the citizen abroad is as much entitled to protection as the citizen at home*. The great object and duty of government is the protection of the lives, liberty, and property of the people composing it, whether abroad or at home; and any government failing in the accomplishment of the object, or the performance of the duty, is not worth preserving.

*Durand v. Hollins*, 8 F. Cas. 111, 112 (C.C.S.D.N.Y. 1860) (No. 4,186) (emphasis added).

Later, the full Court confirmed this analysis in an opinion holding that the President has inherent authority to provide bodyguards, clothed with federal immunity from state law, to protect judicial officers, even when they are travelling *within* the United States in the performance of their duties. *In re Neagle*, 135 U.S. 1 (1890). Rather than base its decision on a narrow analysis of the status of federal judges, the Court held that the presidential duty to "take Care that the Laws be faithfully executed"[16] includes "any obligation fairly and properly inferrible [sic] from" the Constitution.[17] The Court specifically stated that these were not limited to the express terms of statutes and treaties, but included "the rights, duties, and obligations growing out of *the Constitution itself*, our *international relations*, and *all* the protection implied by the nature of the government under the Constitution."[18] As the Court pointed out, Congress itself had approved this position when it ratified the conduct of the government in using military threats and diplomatic pressure to secure the release of an American who had been taken prisoner in Europe. Noting that Congress had voted a medal for the naval officer who had threatened to use force to obtain the American's release, the Court asked, "Upon what act of Congress then existing can any one lay his finger in support of the action of our government in this matter?"[19] If military force may be used on the President's own discretion to protect American lives and property abroad, surely the less drastic means employed by President Reagan during the Iran project were within his constitutional authority.

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[16] U.S. Const., art. II, sec. 3.

[17] *In re Neagle*, 135 U.S. at 59.

[18] *Id*. at 64 (emphasis added).

### II. *Any Statute Infringing upon the President's Inherent Authority to Conduct Foreign Policy Would be Unconstitutional and Void*.

Congress has traditionally exercised broad implied powers in overseeing the activities of Executive Branch agencies, including "probes into departments of the Federal Government to expose corruption, inefficiency or waste." *Watkins v. United States*, 354 U.S. 178, 187 (1957); see also *McGrain v. Daugherty*, 273 U.S. 135, 161-164 (1927). This power of oversight is grounded on Congress's need for information to carry out its legislative function. Because the executive departments are subject to statutory regulation and to practical restrictions imposed through appropriations levels, Congress can usually demonstrate that it has a legitimate and proper need for the information necessary to make future regulatory and appropriations decisions in an informed manner. *McGrain*, 273 U.S. at 178.

As the Supreme Court has observed, however, the congressional power of oversight "is not unlimited." *Watkins*, 354 U.S. at 187.[20] It can be exercised only in aid of a legitimate legislative function traceable to one of Congress's enumerated powers. See *McGrain*, 273 U.S. at 173-174. The power of oversight cannot constitutionally be exercised in a manner that would usurp the functions of either the Judicial or Executive Branches. Thus, the Supreme Court has held that by investigating the affairs of a business arrangement in which one of the government's debtors was interested, "the House of Representatives not only exceeded the limit of its own authority, but assumed a power which could only be properly exercised by another branch of the government, because it was in its nature clearly judicial." *Kilbourn v. Thompson*, 103 U.S. 168, 192 (1881). The same principle applies to congressional inquiries that would trench on the President's exclusive functions. "Lacking the judicial power given to the Judiciary, [Congress] cannot inquire into matters that are exclusively the concern of the Judiciary. *Neither can it supplant the Executive in what exclusively belongs to the Executive.*" *Barenblatt v. United States*, 360 U.S. 109, 112 (1959) (emphasis added).[21]

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[19] *Id*. The fact that such a statute may have existed, see Expatriation Act of July 27, 1868, ch. 249, sec. 3, 15 Stat. 223, 224 (current version at 22 U.S.C. 1732) (authorizing the President to use such means, short of war, as may be necessary to obtain the release of Americans unjustly held prisoner by foreign governments), does not diminish the force of the Supreme Court's statement that no such statute would be *needed* to support such an exercise of executive power.

[20] It is worth observing that Congress's oversight powers are no more explicit in the Constitution than are the President's powers in foreign affairs. See *McGrain*, 273 U.S. at 161.

It is undoubtedly true that the Constitution does not contemplate "a complete division of authority between the three branches." *Nixon v. Administrator of General Services*, 433 U.S. 425, 443 (1977). Nevertheless, there are certain quintessential executive functions that Congress may not exercise in the guise of its "oversight power." Congress, for example, may not give its own agents the power to make binding rules "necessary to or advisable for the administration and enforcement of a major statute." *Buckley v. Valeo*, 424 U.S. 1, 281 (1976) (White, J., concurring in part). Nor may Congress unilaterally alter the rights and duties created by a prior statutory authorization. *INS v. Chadha*, 462 U.S. 919, 951 (1983). In general, the management and control of affairs committed to the Executive Branch, even those given to the Executive by Congress itself, must remain firmly in the control of the President. *Myers v. United States*, 272 U.S. 52, 135 (1926). *A fortiori*, the conduct of affairs committed exclusively to the President by the *Constitution* must be carefully insulated from improper congressional interference in the guise of "oversight" activities.

This principle has three immediately relevant corrolaries. First, decisions and actions by the President and his immediate staff in the conduct of foreign policy are not subject to direct review by Congress. "By the constitution of the United States, the President is invested with certain important political powers, in the exercise of which he is to use his own discretion, and is accountable only to his country in his political character, and to his own conscience." *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 164 (1803).[22]

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[21] On its facts, *Barenblatt* did not involve an inter-branch dispute. The Court upheld a contempt citation issued by a House Committee against a witness who refused to answer questions about his ties with the Communist Party.

[22] Obviously, Congress may investigate and consider the President's past actions when performing one of its own assigned functions (for example, while giving advice and consent to treaties or appointments, deciding whether to issue a declaration of war, or during the impeachment process).

Second, while Congress unquestionably possesses the power to make decisions as to the appropriation of public funds, it may not attach conditions to Executive Branch appropriations that require the President to relinquish any of his constitutional discretion in foreign affairs. Just as an individual cannot be required to waive his constitutional rights as a condition of accepting public employment or benefits, so the President cannot be compelled to give up the authority of his office as a condition of receiving the funds necessary to carry out the duties of his office.[23] To leave the President thus at the mercy of the Congress would violate the principle of the separation of powers in the most fundamental manner. *The Federalist* indicates that one great "inconveniency" of republican government is the tendency of the legislature to invade the prerogatives of the other branches, and that one of the main concerns of the Framers was to give the other branches the "necessary constitutional means and personal motives to resist [such] encroachments."[24] In an effort to address this problem the Constitution provides that the President's personal compensation cannot be altered during his term of office,[25] and it must be acknowledged that the President's *constitutional* independence is even more precious and vulnerable than his personal independence.[26]

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[23] The doctrine of unconstitutional conditions has pervasive application throughout the law. For a good general statement of the doctrine, see *Frost & Frost Trucking Co. v. Railroad Commission*, 271 U.S. 583, 594 (1926):

> If the state may compel the surrender of one constitutional right as a condition of its favor, it may, in like manner, compel a surrender of all. It is inconceivable that guaranties embedded in the Constitution of the United States may thus be manipulated out of existence.

[24] *The Federalist* No. 51, at 321-322 (J. Madison) (C. Rossiter ed. 1961).

[25] U.S. Const., art. II, sec. 1, cl. 7; *The Federalist* No. 51, at 321 (J. Madison) (C. Rossiter ed. 1961); *id*. No. 73, at 441-442 (A. Hamilton).

Third, any statute that touches on the President's inherent authority in foreign policy must be interpreted to leave the President as much discretion as the language of the statute will allow. This accords with the well-established judicial presumption in favor of construing statutes so as to avoid constitutional questions whenever possible.[27] Because the President's constitutional authority in international relations is by its very nature virtually as broad as the national interest and as indefinable as the exigencies of unpredictable events, almost any congressional attempt to curtail his discretion raises questions of constitutional dimension. Those questions can, and must, be kept to a minimum in the only way possible: by resolving all statutory ambiguities in accord with the presumption that recognizes the President's constitutional independence in international affairs.

## III. Statutory Requirements that the President Report to Congress about his Activities Must Be Construed Consistently with the President's Constitutional Authority to Conduct Foreign Policy.

In 1980, the National Security Act of 1947 was amended to provide for congressional oversight of "significant anticipated intelligence activities." This section now provides (section

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[26] See 41 Op. A.G. 230, 233 (1955):

> It is recognized that the Congress may grant or withhold appropriations as it chooses, and when making an appropriation may direct the purposes to which the appropriation shall be devoted. It may also impose conditions with respect to the use of the appropriation, provided always that the conditions do not require operation of the Government in a way forbidden by the Constitution. If the practice of attaching invalid conditions to legislative enactments were permissible, it is evident that the constitutional system of the separability of the branches of Government would be placed in the gravest jeopardy.

[27] "[I]f 'a construction of the statute is fairly possible by which [a serious doubt of constitutionality] may be avoided,' a court should adopt that construction." Califano v. Yamasaki, 442 U.S. 682, 693 (1979) (quoting Crowell v. Benson, 285 U.S. 22, 62 (1932)).

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501(a) of the National Security Act, 50 U.S.C. 413(a)) (emphasis added):

> To the extent consistent with all applicable authorities and duties, including those conferred by the Constitution upon the executive and legislative branches of the Government, and to the extent consistent with due regard for the protection from unauthorized disclosure of classified information and information relating to intelligence sources and methods, the Director of Central Intelligence and the heads of all departments, agencies, and other entities of the United States involved in intelligence activities shall --
>
> (1) keep the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives . . . fully and currently informed of all intelligence activities which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States, including any significant anticipated intelligence activity, except that (A) the foregoing provision shall not require approval of the intelligence committees as a condition precedent to the initiation of any such anticipated intelligence activity, and (B) if the President determines it is essential to limit prior notice to meet extraordinary circumstances affecting vital interests of the United States, such notice shall be limited to the chairman and ranking minority members of the intelligence committees, the Speaker and minority leader of the House of Representatives, and the majority and minority leaders of the Senate.

For situations in which the President fails to give prior notice under section 501(a), section 501(b), 50 U.S.C. 413(b), (emphasis added) provides:

> The President shall fully inform the intelligence committees in a timely fashion of intelligence operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, for which prior notice was not given under subsection (a) of this section and shall provide a statement of the

reasons for not giving prior notice.[28]

The delicate connection between the "timely notice" requirement of section 501(b) and the President's inherent constitutional authority, acknowledged in section 501(a), is dramatically confirmed by a colloquy between Senators Javits and Huddleston, both of whom were on the committee that drafted this provision. Senator Javits asked: "If information has been withheld from both the select committee and the leadership group (as section 501(b) envisages), can it be withheld on any grounds other than 'independent constitutional authority' and, if so, on what grounds?" Senator Huddleston answered: "Section 501(b) recognizes that the President may assert constitutional authority to withhold prior notice of covert operation [sic], but would not be able to claim the identical authority to withhold timely notice under section 501(b). A claim of constitutional authority is the sole grounds that may be asserted for withholding prior notice of a covert operation." 126 Cong. Rec. 17693 (1980)

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[28] Section 501 of the National Security Act does not contemplate that prior notice of "intelligence activities" will be given in all instances. Subsection (b) of section 501 makes specific provision for situations in which "prior notice was not given under subsection (a)." Because subsection (a) includes situations in which the President provides notice to the full intelligence committees under subsection (a)(1)(A) and situations in which he provides prior notice restricted to designated members of Congress, including the chairmen and ranking members of the House and Senate intelligence committees under subsection (a)(1)(B), it seems clear that subsection (b) contemplates situations in which no prior notice has been given under either of these provisions.

(emphasis added).[29] If, as Senator Huddleston contended, section

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[29] A similar colloquy took place on the floor of the House between Rep. Boland, Chairman of the House Select Committee on Intelligence, and Rep. Hamilton:

> Rep. Hamilton: As I understand that subsection, it allows the President to withhold prior notice entirely: that is, he does not inform anyone in that circumstance. He only has to report in a timely fashion.
> Is that a correct view of subsection (b)?
>
> Rep. Boland: In response to the gentleman, let me say that the President must always give at least timely notice.

126 Cong. Rec. 28,392 (1980). Thus, Rep. Boland clearly, if reluctantly, confirmed Rep. Hamilton's interpretation. During the floor debates, several Senators also acknowledged that the proposed legislation did not require that Congress be notified of all intelligence activities prior to their inception. According to Senator Nunn, the bill contemplated that "in certain instances the requirements of secrecy preclude any prior consultation with Congress." 126 Cong. Rec. 13,127 (1980)(statement of Sen. Nunn). See also *id.* at 13,125 (statement of Sen. Huddleston)("Section 501(b) recognizes that the President may assert constitutional authority to withhold prior notice of covert operations . . . ."); *id.* at 13,103 (statement of Sen. Bayh).

In the course of the floor debates, some Senators stated that the situations in which prior notice was not required would be very rare. See, *e.g.*, 126 Cong. Rec. 26,276 (1980) (remarks of Sen. Inouye). Such statements are of little relevance to determining the scope of the prior notice requirement. First, the executive branch has always agreed that instances of deferred reporting will be rare and has consistently given prior notice. Second, section 501 at the very least permits the President to defer notice when he is acting pursuant to his independent constitutional authority; the scope of this authority is determined, not by legislators' view of the Constitution, but by the Constitution itself. Third, the draftsmen of section 501 decided that because the scope of the President's constitutional "authorities and duties" was in serious dispute, the legislation would not attempt to resolve the issues separating the parties to the dispute. See 126 Cong. Rec. 13,123 (1980) (statement of Sen. Javits). The ambiguities of subsection (b) reflect Congress' *inability* to override the executive branch's view of the President's constitutional authority. That dispute cannot now be settled, contrary to the Executive's position, by reference to the statements of individual Congressmen who had a narrow view of the President's constitutional role.

501(b) is to be interpreted to require the President to act on his inherent authority in withholding notice of covert operations until after the fact,[30] then any further statutory limitations on the President's discretion should be narrowly construed in order to respect the President's constitutional independence. The requirement that such after-the-fact notification be made "in a timely fashion" appears to be such an additional limitation.

The entire analysis in this memorandum supports the proposition that the phrase "in a timely fashion" must be construed to mean "as soon as the President judges that disclosure to congressional committees will not interfere with the success of the operation." To interpret it in any other way--for example, by requiring notification within some arbitrary period of time unrelated to the exigencies of a particular operation--would seriously infringe upon the President's ability to conduct operations that cannot be completed within whatever period of time was read into the statutory provision.[31] Furthermore, several putatively discrete intelligence "operations" may be so interrelated that they should realistically be treated as a single undertaking whose success

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[30] Senator Huddleston's interpretation is not necessarily correct. As we indicated in our memorandum of November 14, 1986, the President may be able to withhold prior notice even without invoking his independent constitutional authority.

[31] On the floor of the Senate, the bill's sponsor indicated that his personal view of the President's constitutional powers was very narrow, and that he wanted the relevant congressional committees notified "as soon as possible." He acknowledged, however, that the executive branch took a different view, and that he expected "that these matters will be worked out in a practical way." 126 Cong. Rec. 13096 (1980) (remarks of Sen. Huddleston). These statements show that the legislation was not thought to preclude the President from acting on his own view of his own constitutional powers. In guarding against such improper interference, the President's own interpretation of his constitutional powers "is due great respect" from the other branches. See United States v. Nixon, 418 U.S. 683, 703 (1974).

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might be jeopardized by disclosure prior to its completion.[32]

Thus, a number of factors combine to support the conclusion that the "timely fashion" language should be read to leave the President with virtually unfettered discretion to choose the right moment for making the required notification. The word

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[32] In his prepared testimony on S. 2284, President Carter's CIA Director, Stansfield Turner, stated (National Intelligence Act of 1980: Hearings before the Senate Select Committee on Intelligence, 96th Cong. 2d Sess. 17 (1980)) (emphasis added):

> Prior reporting would reduce the President's flexibility to deal with situations involving grave danger to personal safety, or which dictate special requirements for speed and secrecy. On the other hand, activities which would have long term consequences, or which would be carried out over an extended period of time should generally be shared with the Congress at their inception, and I would have no objection to making this point in the legislative history.

Turner's testimony cannot properly be interpreted to imply that all "long term," as opposed to "short term," projects require prior notice. First, Turner drew a distinction between projects involving great personal danger or requiring speed and secrecy and projects of long duration or with long term consequences. He did not address projects that are both long term and that involve danger to personal safety, such as the recent Iranian initiative. The inadvisability of prior reporting applies as forcefully to such a project as to "short term" projects that involve personal safety. Second, Turner was careful not to say that long term projects must always be reported at their inception: he said only that they will generally be so reported. In a colloquy with Senator Bayh concerning the word "generally," Turner stressed that "one has to be a little cautious" in making such a statement because "it will be quoted back from these hearings for years to come." Hearings, supra, at 32. Turner never stated that the Executive would or should give prior notice of all long term projects. Third, a distinction between long and short term projects would virtually force the President to prefer military to diplomatic initiatives in situations like the one at issue in this memorandum, which could not have been Congress' intent.

In any event, S. 2284 was not enacted, and the full Congress never had its attention directed to Turner's statements. Those statements are therefore not a significant aid in interpreting section 501(b). As we have shown, both the text of the statute and the colloquies on the floor of the House and Senate indicate that Congress did not require prior notice when the President was acting pursuant to his independent constitutional authority. In permitting "timely notice" in section 501(b), Congress made no distinction between long and short term projects, and no such distinction should be read into the statute.

"timely" is inherently vague;[33] in any statute, it would ordinarily be read to give the party charged with abiding by a timeliness requirement the latitude to interpret it in a reasonable manner. Congress apparently thought that the notification requirement was meant to limit the President's exercise of his inherent authority, while at the same time Congress acknowledged the existence and validity of that authority. Because the President is in the best position to determine what the most reasonable moment for notification is, and because any statutory effort to curtail the President's judgment would raise the most serious constitutional questions, the "timely fashion" language should be read, in its natural sense, as a concession to the President's superior knowledge and constitutional right to make any decision that is not manifestly and indisputably unreasonable.[34] This conclusion is reinforced by the nature of intelligence operations, which are often exceptionally delicate undertakings that may have to extend over considerable periods of time. The statute's recognition of the President's authority to withhold prior notification would be meaningless if he could not withhold notification at least until after the undertaking as a whole was completed or terminated.[35]

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[33] The statute uses a more precise phrase in section 501(a), where it requires that certain committees be kept "fully and currently informed" of activities not covered by section 501(b). This phrase was interpreted by the Senate Committee to mean that "[a]rrangements for notice are to be made forthwith, without delay." S. Rep. No. 730, 96th Cong., 2d Sess. 9 (1980), reprinted in 1980 U.S. Code Cong. & Admin. News 4192, 4199. No such interpretation was placed on the "timely fashion" language of section 501(b). See id. at 12, reprinted in U.S. Code Cong. & Admin. News, at 4202-4203.

[34] The legislative history of section 501(a) specifically indicated that "[n]othing in this subsection is intended to expand or to contract or to define whatever may be the applicable authorities and duties, including those conferred by the Constitution upon the Executive and Legislative branches." S. Rep. No. 730, 96th Cong., 2d Sess. 6 (1980), reprinted in 1980 U.S. Code Cong. & Admin. News 4192, 4196. Furthermore, the Senate Committee acknowledged that it was "uncertain" about the distribution of powers between the President and Congress in the national security and foreign policy area. See id. at 9, reprinted in 1980 U.S. Code Cong. & Admin. News, at 4199.

## Conclusion

Section 501(b) of the National Security Act of 1947 must be interpreted in the light of section 501 as a whole and in light of the President's broad and independent constitutional authority to conduct foreign policy. The requirement that the President inform certain congressional committees "in a timely fashion" of a foreign intelligence operation as to which those committees were not given prior notice should be read to leave the President with discretion to postpone informing the committees until he determines that the success of the operation will not be jeopardized thereby. Because the recent contacts with elements of the Iranian government could reasonably have been thought to require the utmost secrecy, the President was justified in withholding section 501(b) notification during the ongoing effort to cultivate those individuals and seek their aid in promoting the interests of the United States.

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[35] Section 502 of the National Security Act, 50 U.S.C. 414, generally limits the use of funds appropriated for intelligence activities to cases in which Congress has been given prior notice of the nature of the activities. Section 502(a)(2) allows expenditures when "in the case of funds from the Reserve for Contingencies of the Central Intelligence Agency and consistent with the provisions of section [501] concerning any significant anticipated intelligence activity, the Director of Central Intelligence has notified the appropriate congressional committees of the intent to make such funds available for such activity." This provision should be interpreted to allow the President to use funds from the Reserve for Contigencies in order to carry out operations for which he withholds notice in accord with section 501(b). Section 502(a)(2)'s specific reference to section 501 should be taken to give the President implicit authorization to withhold notification of the expenditure of funds just as he withholds notification of the operation itself: to read it otherwise would mean that section 502 had effectively, though impliedly, repealed section 501's acknowledgement of the President's independent constitutional authority.

It should be noted, however, that section 502(a)(2) is clumsily drafted; if read literally, it could be taken to suggest that Congress must always be notified in advance when funds appropriated for intelligence activities are to be used for covert operations. The Conference Committee commented on the language in question by noting that it did not expect situations to arise in which there would have to be prior notice under section 502 as to the funding of an activity that did not itself have to be reported under section 501; the Committee also indicated that if such a situation were to arise, it should be resolved in a spirit of "comity and mutual understanding." H.R. Conf. Rep. No. 373, 99th Cong., 1st Sess. 19 (1985), reprinted in 1985 U.S. Code Cong. & Admin. News 952, 961-962. Accord S. Rep. 79, 99th Cong., 1st Sess. 5 (1985). Similarly, the House Committee Report indicated that "the same event . . . can be treated in the same way under new Section 502(a) and Section 501. H.R. Rep. No. 106 (Part 1) 8 (1985), reprinted in 1985 U.S. Code Cong. & Admin. News 952, 954. This supports the reasoning outlined above.

Chas. C. Cooper

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# APPENDIX B: OTHER DOCUMENTS AND MATERIALS INTRODUCED AT THE HEARINGS

U.S. Department of Justice
Office of Legal Counsel

December 17, 1986

Office of the
Assistant Attorney General

Washington, D.C. 20530

MEMORANDUM FOR THE ATTORNEY GENERAL

Re: Legal Authority for Recent Covert Arms Transfers to Iran

This memorandum responds to your request for a summary of the legal authorities affecting the recently disclosed arms transfers to Iran. Because the exact details of the transfers have apparently not completely transpired, this memorandum will provide a general framework for analysis, with references only to the basic facts that have already emerged. Although this memorandum does not deal with questions arising from the handling of the monies that Iran paid for the arms in question, the operation in which weapons were sold to Iran appears in other respects to have been lawful.

## I. General Authority for Arms Transfers to Iran

As you know, there are numerous statutes that regulate the export of weapons. The principal statutes directly affecting transfers by the government are the Foreign Assistance Act of 1961[1] and the Arms Export Control Act.[2] Although both statutes establish substantially comprehensive regulatory schemes in the areas of military assistance and military sales, they do not purport to constitute the sole and exclusive authority under which the executive branch may transfer weapons to foreign nations. Thus, the limitations that the Foreign Assistance Act and Arms Export Control Act impose on arms transfers apply only to transfers undertaken pursuant to those statutes. If the sales to Iran were accomplished under other authorities, as we believe they were, these restrictions would not apply.[3]

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[1] Codified, as amended, in relevant part at 22 U.S.C. 2311 et seq.

[2] Codified, as amended, in relevant part at 22 U.S.C. 2751 et seq.

Consistent with the President's constitutional responsibilities for conducting the foreign policy of the nation, Congress has recognized that the executive has considerable discretion to use government resources for a variety of activities not specifically authorized by statute.[4] Most conspicuously for present purposes, section 101 of the National Security Act of 1947[5] assigns certain functions to the National Security Council, but expressly acknowledges that that entity may "perform[] such other functions as the President may direct." Similarly, section 102 of the same Act[6] assigns certain functions to the Central Intelligence Agency, while authorizing that Agency "to perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct." We believe that these two provisions may be relied on to support a wide range of foreign covert activities not otherwise forbidden by law.

The authorities exercised by the NSC and the CIA include the discretion to transfer arms to foreign recipients in the course of intelligence or intelligence-related activities. Congress recently confirmed the existence of such authority in section 403 of the Intelligence Authorization Act for Fiscal Year 1986, Pub. L. No. 99-169, 99 Stat. 1002, 1006 (1985). That provision provides in relevant part:

> Sec. 403. (a)(1) During fiscal year 1986, the transfer of a defense article or defense service exceeding $1,000,000 in value by an intelligence agency to a recipient outside that agency shall be considered a significant

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[3] It should be noted that the Department of State and the Department of Justice have both taken the position, long before the operation at issue in this memorandum, that arms may be transferred to foreign countries outside the context of the Arms Export Control Act. See Memorandum of Law on Legal Authority for the Transfer of Arms Incidental to Intelligence Collection, by David R. Robinson, Legal Adviser, Department of State; Letter from William French Smith to William J. Casey (Oct. 5, 1981).

[4] For a detailed discussion of the President's constitutional powers and responsiblities, as they relate to the Iran operation, see our memorandum on section 501(b) of the National Security Act.

[5] Codified as amended at 50 U.S.C. 402.

[6] Codified as amended at 50 U.S.C. 403.

anticipated intelligence activity for the purpose of section 501 of the National Security Act of 1947.

(2) Paragraph (1) does not apply if--

(A) the transfer is being made to a department, agency, or other entity of the United States (so long as there will not be a subsequent retransfer of the defense articles or defense services outside the United States Government in conjunction with an intelligence or intelligence-related activity); or

(B) the transfer--

(i) is being made pursuant to authorities contained in part II of the Foreign Assistance Act of 1961, the Arms Export Control Act, title 10 of the United States Code (including a law enacted pursuant to section 7307(b)(1) of that title), or the Federal Property and Administrative Services Act of 1949, and

(ii) is not being made in conjunction with an intelligence or intelligence-related activity.

(3) An intelligence agency may not transfer any defense article or defense services outside the agency in conjunction with any intelligence or intelligence-related activity for which funds were denied by the Congress.

(b) As used in this section--

(1) the term "intelligence agency" means any department, agency or other entity of the United States involved in intelligence or intelligence-related activities;

This provision, which was made a permanent part of the National Security Act (new section 503) by the Intelligence Authorization Act for Fiscal Year 1987, was primarily intended to limit the executive's discretion to transfer arms in the course of intelligence-related activities. Its present significance, however, lies in its unambiguous recognition that the executive possesses such discretion apart from the Foreign Assistance Act and the Arms Export Control Act.[7] Assuming that the arms transferred to Iran were sold to that country at a legally justified price,[8] the language of sections 101 and 102 of the National Security Act is broad enough to encompass the kind of discretion whose existence is manifestly implied in section 403 of the Intelligence Authorization Act.[9] It follows that the NSC and/or the CIA had authority to arrange for the sale of arms to Iran as part of an intelligence or intelligence-related operation, subject to such other restrictions as Congress may have imposed by law. The remainder of this memorandum discusses the applicability of such restrictions.

[7] Because subsection (a)(2) states that subsection (a)(1) does not apply to transfers made pursuant to authorities contained in the Foreign Assistance Act or the Arms Export Control Act, the clear implication is that the restriction in subsection (a)(1) applies to transfers made pursuant to some other authority.

The same implication can be drawn from other congressional actions that have imposed restrictions on covert arms transfers without suggesting that such transfers were subject to existing restrictions under the Foreign Assistance Act or the Arms Export Control Act. For example, a provision was enacted in 1974 precluding funding for military assistance to Laos outside the confines of the Foreign Assistance Act and the Arms Export Control Act. See Pub. L. No. 93-559, sec. 12, 88 Stat. 1798 (1974) (repealed by Pub. L. No. 97-113, title VII, sec. 734(a)(1), 95 Stat. 1560 (1981)).

[8] Our point here is that the charters of the CIA and NSC appear to recognize that those entities may use their facilities to arrange an arms sale to Iran. Whether these or other governmental agencies would be authorized to spend the sums of money necessary to procure and give arms to Iran is a distinct question, which need not be addressed at this time.

Because we have not seen the classified Schedule of Authorizations referred to in section 102 of the Intelligence Authorization Act for Fiscal Year 1986 or the similar schedule referred to in the FY 1985 authorization legislation, we do not know whether anything in those schedules would affect the issues addressed in this memorandum.

This memorandum does not address the legal questions that may arise from arms having been sold to Iran at prices higher than the prices at which they were made available to the CIA or NSC.

[9] Whether the ultimate source of this discretion is the President's inherent constitutional authority in foreign affairs, or the cited statutes, or some other statute, is a question that need not be resolved. The crucial point is that section 403 of the Intelligence Authorization Act clearly recognizes the existence of the authority, whatever its source.

## II. Section 501 of the National Security Act

Under section 403 of the Intelligence Authorization Act for Fiscal Year 1986 (which has now been made permanent as new section 503 of the National Security Act), an arms transfer by either the NSC[10] or the CIA exceeding $1 million in value is subject to the congressional oversight provisions of Section 501 of the National Security Act.[11] We have prepared a separate memorandum in which we concluded that the requirements of section 501 were satisfied as to the recent arms shipments to Iran. We will not repeat that discussion here.

## III. The Hughes-Ryan Amendment

The so-called Hughes-Ryan Amendment, section 662 of the Foreign Assistance Act, (codified as amended at 22 U.S.C. 2422), provides in its present form:

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[10] The NSC clearly falls within the definition of an intelligence agency given in section 403(b)(1) of the Intelligence Authorization Act: "any department, agency or other entity of the United States involved in intelligence or intelligence-related activities."

[11] Covert intelligence operations are subject to the congressional reporting requirements of section 501 of the National Security Act, whether they are conducted by the CIA, the NSC, or some other agency. Section 501(a), 50 U.S.C. 413(a), imposes reporting requirements not only on the Director of Central Intelligence, but also on "the heads of all departments, agencies, and other entities of the United States involved in intelligence activities" (emphasis added). Furthermore, the reporting requirements apply to "all intelligence activities which are the responsibility of, are in engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States . . . ." (emphasis added). This language is broad enough to encompass the NSC. Finally, even if activities carried out by the NSC could somehow escape the broad language of section 501(a), section 501(b) contains unqualified language requiring the President to "fully inform the [congressional] intelligence committees in a timely fashion of intelligence operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, for which prior notice was not given under subsection (a) of this section . . . .". Thus, unlike the Hughes-Ryan Amendment (discussed in Part III of this memorandum), section 501 of the National Security Act applies to all intelligence operations in foreign countries, whether conducted by the CIA, the NSC, or some other governmental entity.

> No funds appropriated under the authority of this chapter or any other Act may be expended by or on behalf of the Central Intelligence Agency for operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, unless and until the President finds that each such operation is important to the national security of the United States. Each such operation shall be considered a significant anticipated intelligence activity for the purpose of section 413 of title 50 [i.e. section 501 of the National Security Act].

The original version of this provision, Pub. L. No. 93-559, sec. 32, 88 Stat. 1804 (1974), contained identical language pertaining to the President's national security finding and also required him to "report[], in a timely fashion, a description and scope of such operation to the appropriate committees of the Congress . . . ." In 1980, the reporting requirement was replaced with the current reference to section 501 of the National Security Act.[12]

The current version of Hughes-Ryan, which recognizes the President's authority to conduct covert operations abroad,[13] applies by its terms only to activities involving the CIA and requires only that the President make the requisite finding before funds are expended on the operation. Thus, any transfer of arms to Iran in which the CIA was not involved (for example, an operation conducted by NSC staff members without the aid of the CIA) is exempt from Hughes-Ryan. Thus, based on what we know at this time, it appears that no presidential finding was required under Hughes-Ryan with respect to the September 1985 arms transfer to Iran.

Further, the President's written finding of January 17, 1986 sufficed to satisfy Hughes-Ryan as to CIA-assisted transfers that occurred after that date. Because the Iran project appears to have been a single, ongoing operation and because the January 17,

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[12] The statutory language requiring a presidential finding was not amended, and the legislative history indicates that no change in this requirement was intended. See S. Rep. No. 730, 96th Cong., 2d Sess. 5 (1980), *reprinted in* 1980 U.S. Code Cong. & Admin. News 4192, 4196.

[13] *Cf*. 120 Cong. Rec. 33,489 (1974) (colloquy between Senators Humphrey and Hughes).

1986 finding was drafted broadly enough to cover multiple arms shipments in the course of that ongoing operation, we do not believe that separate presidential findings were required for each of the shipments that took place after that date.

Thus, the main issue under Hughes-Ryan concerns the November 1985 arms shipment. Robert McFarlane, formerly Assistant to the President for National Security Affairs, has publicly testified that shipments prior to January 17, 1986 were carried out pursuant to an oral authorization from the President.[14] And it appears that CIA resources were used to facilitate the November shipment.[15] The question, then, is whether the President's oral authorization of arms transfers to Iran could have implied or constituted a Hughes-Ryan "finding" that would allow the CIA to participate or aid in the transfer.

On its face, Hughes-Ryan requires only that the President find each CIA foreign operation "important to the national security of the United States" before such operation is undertaken. The Hughes-Ryan Amendment contains no requirement that this finding be reduced to writing or indeed that it be articulated in so many words.[16] We believe that the main purpose of the presidential finding requirement is to ensure that the

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[14] Because there is some reason to believe that Mr. McFarlane's recollection was not wholly accurate, this Office is preparing a separate analysis of the legal issues that would arise from the absence of an oral authorization by the President for the September and/or November shipments.

[15] There may have been pre-existing written "omnibus" Hughes-Ryan findings that would cover whatever tasks the CIA performed in connection with the November shipment. Further research into the exact nature of the CIA's participation and into the existence of such findings will be needed in order to resolve this issue.

Although the facts are not clear at this time, it appears possible that the only significant CIA involvement in the November shipment was through the use of one its proprietaries. If the proprietary was paid for its services with non-CIA funds, then CIA appropriations may not have been used at all. If that is true, Hughes-Ryan would not be applicable to the November shipment. Alternatively, the CIA's involvement in the November shipment may have been so peripheral that it should be treated in terms of a *de minimis* exception to Hughes-Ryan; such an analysis would require further research.

[16] There are other statutory provisions requiring that findings or determinations by executive branch officials be committed to writing. See *e.g.*, 20 U.S.C. 2836(c)(3).

President himself[17] decides, before each operation, whether the national security justifies its being carried out. Such a decision, which can be inferred from an oral authorization, satisfies this purpose, and an oral authorization therefore satisfies the Hughes-Ryan finding requirement.[18]

So far as we know, the only legal provision suggesting that the President's finding under Hughes-Ryan might have to be in written form is found in section 654 of the Foreign Assistance Act:[19]

> (a) Report to Congress
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> In any case in which the President is required to make a report to the Congress, or to any committee or officer of either House of Congress, concerning any finding or determination under any provision of this chapter . . . that finding or determination shall be reduced to writing and signed by the President.

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[17] The President could, presumably, delegate this function to any executive branch official who had been confirmed by the Senate. 3 U.S.C. 301. Such a delegation would have to be published in the Federal Register, which would give Congress the opportunity to object or enact new legislation if it were felt that such delegation was inadvisable.

[18] The legislative history of the Hughes-Ryan Amendment, which focuses mostly on the reporting requirement and congressional oversight generally, contains little discussion of the presidential finding requirement itself. On the floor of the Senate, Senator Humphrey mentioned in passing that national security "would be the only reason we would want to have covert operations . . ." The bill's sponsor, Senator Hughes, interrupted to remark, "I hope that is the only reason." 120 Cong. Rec. 33,489 (1974). We interpret this exchange to confirm our conclusion that the requisite finding could be inferred from the President's having personally authorized a particular operation. We know of nothing in the legislative history of Hughes-Ryan suggesting that Congress meant to disallow oral or implied "findings" by the President. Indeed, Senator Hughes stated on the floor of the Senate that even the congressional report itself, which was regarded as the more important requirement of the Amendment, could be delivered orally by a presidential aide. 120 Cong. Rec. 33,490 (1974) (colloquy between Sen. Hughes and Sen. Stennis).

[19] Codified at 22 U.S.C. 2414.

> (b) Action prohibition prior to execution of report
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> No action shall be taken pursuant to any such finding or determination [prior to the date on which that finding or determination] has been reduced to writing and signed by the President.
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> (c) Publication in Federal Register
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> Each such finding or determination shall be published in the Federal Register as soon as practicable after it has been reduced to writing and signed by the President. In any case in which the President concludes that such publication would be harmful to the national security of the United States, only a statement that a determination or finding has been made by the President, including the name and section of the Act under which it was made, shall be published.
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> (d) Information accessible to Congress prior to transmission of report
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> No committee or officer of either House of Congress shall be denied any requested information relating to any finding or determination which the President is required to report to the Congress, or to any committee or officer of either House of Congress, under any provision of this chapter, the Foreign Military Sales Act [22 U.S.C. 2751 et seq.], or the Foreign Assistance and Related Programs Appropriation Act for each fiscal year, even though such report has not yet been transmitted to the appropriate committee or officer of either House of Congress.

Because Hughes-Ryan and this provision are both in chapter 32 of title 22, the President would be required to reduce the required finding to writing before each covert operation if he were required to make a report concerning that finding to Congress or to any congressional committee or officer. Hughes-Ryan, however, has never required the President to make any such report concerning his findings: (1) in its present version, Hughes-Ryan requires compliance with section 501 of the National Security Act, which demands certain reports about "intelligence activities"[20] and "intelligence operations"[21] but requires no reports about presidential findings;[22] (2) as originally enacted, Hughes-Ryan required the President to report "a description and scope" of the *operation* to certain congressional committees;[23] (3) as originally introduced by Senator Hughes, the Hughes-Ryan Amendment would have required that the President provide Congress with both a report of his finding and description of the nature and scope of each operation;[24] the first of these requirements would have made the requirements of section 654 applicable, but this requirement was *dropped* from the final version of the bill; thus, Congress deliberately *rejected* the language that might have brought section 654 into play and substituted language that made section 654 inapplicable.[25] We therefore conclude that section 654 by its own terms does not apply to the Hughes-Ryan Amendment.[26]

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[20] 50 U.S.C. 413(a)(1) (requiring that executive branch officials keep certain congressional committees "fully and currently informed of all intelligence activities" within their jurisdiction).

[21] 50 U.S.C. 413(b) (requiring that the President "fully inform the [congressional] intelligence committees in a timely fashion of intelligence operations in foreign countries . . . for which prior notice was not given under subsection (a) of this section . . . .").

[22] Section 501(a)(2), 50 U.S.C. 413(a)(2), might require certain executive branch officials to provide information about presidential findings, if the information is in their "possession custody, or control," to a congressional intelligence committee upon that committee's request, but it does not require that the President himself make any such report. Section 654 applies only to findings as to which the President himself is required to report to Congress.

[23] As originally enacted, Hughes-Ryan forbade the CIA to spend appropriated funds for covert foreign operations unless and until the President had made the requisite national security finding and had "report[ed], in a timely fashion, a description and scope of such operation to the appropriate committees of the Congress . . . .".

[24] See 120 Cong. Rec. 33,490 (1974), reproducing Senator Hughes' proposed amendment, which would have permitted the President to authorize covert operations "if, but not before, he (1) finds that such operation is vital to the defense of the United States, and (2) transmits an appropriate report of his finding, together with an appropriate description of the nature and scope of such operation" to certain congressional committees.

This conclusion is reinforced by the structure of the Foreign Assistance Act and long-standing practice. This Act deals primarily with overt foreign aid, including military assistance. To subject covert operations, including covert arms transfers, to the requirements of section 654(c), which requires publication in the Federal Register, would not make much sense, especially now that the National Security Act contains an elaborate mechanism by which Congress is kept informed of covert operations.[27] We are informed by the General Counsel of the CIA that presidential findings made pursuant to Hughes-Ryan have never been published in the Federal Register, and that Congress has never objected to this practice. This confirms our conclusion, based on the language and legislative history of the statutory provisions at issue, that section 654 does not apply to presidential findings under Hughes-Ryan.[28]

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[25] The language ultimately adopted by Congress was taken from the House of Representatives' version of the proposed amendment. See 120 Cong. Rec. 39,135 (1974); H.R. Conf. Rep. No. 1610, 93d Cong., 2d Sess. (1974), reprinted in 1974 U.S. Code Cong. & Admin. News 6734, 6744-6745.

[26] This analysis does not leave section 654 without any applications. Chapter 32 of title 22 contains numerous provisions requiring both a presidential finding or determination and a report to Congress concerning such finding or determination. See, e.g., 22 U.S.C. 2364(a); 2370(f); 2371(b); 2414a(b); 2428b(b); 2429(b)(1); 2429a(b)(2)(A). Furthermore, chapter 32 also contains numerous provisions requiring presidential findings or determinations without also requiring a congressional report. See, e.g., 22 U.S.C. 2179(a); 2183(a); 2199(b); 2314(b); 2357(a); 2360(a); 2370(a); 2775. Thus, there is a meaningful distinction, reflected in the language of section 654, between findings concerning which the President must report to Congress and findings concerning which no such report is required.

It should be noted that the legislative history of section 654 suggests that it was enacted in response to incidents in which (1) the Nixon Administration provided military aid to Cambodia and obtained the presidential determination required by the Foreign Assistance Act after the fact; and (2) President Nixon orally determined to authorize military aid to Ceylon, but did not put the determination in writing or inform Congress until some weeks later. S. Rep. No. 431, 92d Cong., 1st Sess. (1971), reprinted in 1972 U.S. Code Cong. & Admin. News 1883, 1895-1896. The legislative history of section 654 cannot properly be used to draw inferences about the subsequently enacted Hughes-Ryan Amendment, especially if those inferences would be contrary to the language and legislative history of Hughes-Ryan itself.

Our conclusion, that Hughes-Ryan findings may take the form of an oral authorization for a particular operation, ~~agrees with previous opinions by Attorney General Bell,~~[29] by this Office,[30] and by the Legal Adviser at the Department of State.[31]

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[27] The anomalous nat[illegible] ert operations
in the Federal Regis[illegible] ely
eliminated, by the fo[illegible] 54(c): "in
any case in which the [illegible] publication
would be harmful to t[illegible] ted States,
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[28] This conclusion is fu[illegible] nature of section 654(d), which re[illegible] utive branch to respond to inquiries about president[illegible] indings before the report concerning them has been transmitted to Congress. Such a provision would make no sense as applied to the covert operation findings required by Hughes-Ryan.

[29] In a classified memorandum of Oct. 20, 1977, for the Assistant to the President for National Security Affairs, which dealt with a particular proposed covert operation, Attorney General Bell opined that the President's decision that the operation was important to the national security constituted the finding required by Hughes-Ryan "notwithstanding the fact that his Finding has not been reduced to writing."

[30] OLC Memorandum for the Attorney General, Oct. 25, 1977, on Requirements of the Hughes-Ryan Amendment, 22 U.S.C. 2422, at 6 & n.9.

[31] Memorandum of Dec. 11, 1986, to the White House Counsel et al. on Validity of Oral Instruction to Initiate Covert Action.

## IV. Other Legal Objections to the Arms Shipments

A number of other legal provisions have been mentioned as possibly raising problems about the arms transfers to Iran. None of them raises serious questions, and they warrant only a brief discussion.

### A. Omnibus Diplomatic Security and Antiterrorism Act of 1986.

Section 509 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986, Pub. L. No. 99-399, 100 Stat. 853, 874 (1986), which became effective August 27, 1986, amended the Arms Export Control Act by adding a new section providing:

> (a) Prohibition.--Except as provided in subsection (b), items on the United States Munitions List may not be exported to any country which the Secretary of State has determined, for purposes of section 6(j)(1)(a) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)), has repeatedly provided support for acts of international terrorism.
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> (b) Waiver.--The President may waive the prohibition contained in subsection (a) in the case of a particular export if the President determines that the export is important to the national interests of the United States and submits to the Congress a report justifying that determination and describing the proposed export. Any such waiver shall expire at the end of 90 days after it is granted unless the Congress enacts a law extending the waiver.

The Secretary of State has identified Iran as a country that has repeatedly provided support for acts of international terrorism.[32]

The same reasons that require treating the covert arms shipments to Iran as outside the ambit of the Arms Export Control Act also require that this new amendment to the same Act be treated as inapplicable to covert arms shipments. The President has independent authority, recognized in the National Security Act, for transferring arms in the course of covert intelligence-related operations; the congressional notification requirement in the above-quoted provision is at odds with the congressional oversight process established in section 501 of the National Security Act; and the sparse legislative history of this new provision gives no indication of an intent to override section 501. We therefore conclude that this new provision was not violated by the covert shipment of arms to Iran.

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[32] 49 Fed. Reg. 2836 (1984).

### B. Export Administration Act of 1979.

Section 6(j) of the Export Administration Act of 1979, 50 U.S.C. App. 2405(j), limits the issuing of licenses for the export of goods or technology to countries that the Secretary of State has identified as having repeatedly provided support for acts of international terrorism. This statute does not apply to items on the United States Munitions List, which are covered instead by the Arms Export Control Act. Nor does the statute apply to shipments by the United States government, for which no "license" is required. The Export Administration Act is therefore inapplicable to the Iran project.

### C. Executive Order 12333

It has been suggested that the Iran project in some way violated the provisions of E.O. 12333, which is the executive order dealing with the structure and conduct of the nation's intelligence effort. E.O. 12333, however, like all executive orders is a set of instructions from the President to his subordinates in the executive branch. Activities authorized by the President cannot "violate" an executive order in any legally meaningful sense, especially in a case where no private rights are involved, because his authorization creates a valid modification of, or exception to, the executive order.

## V. Three-way Transactions Involving Israel

Robert McFarlane, formerly Assistant to the President for National Security Affairs, in the public testimony previously mentioned, has said that the arms transfers that took place before January 17, 1986 were accomplished by inducing Israel to ship weapons, which she had obtained from the United States, to Iran on the understanding that our government would replenish Israeli stocks; we also gather that the commitment to resupply Israel was kept. As a legal matter, we believe that such a transaction is equivalent to one in which the United States sells the weapons directly to Iran.

Assuming that the weapons shipped to Iran were originally supplied to Israel under the Foreign Assistance Act or the Arms Export Control Act, Israel would have been forbidden to retransfer them to Iran without the consent of the President.[33] These statutes permit the President to consent to retransfers, but they also require him to comply with a number of formalities. (1) Under the Arms Export Control Act, the President must not consent to a retransfer "unless the United States itself would transfer the defense article under consideration to that country."[34] (2) Furthermore, retransfer of Munitions List items is not permitted under this Act unless "the proposed recipient foreign country [i.e. Iran] provides a commitment in writing to the United States Government that it will not transfer such defense articles . . . to any other foreign country or person without first obtaining the consent of the President."[35] (3) Finally, the President must "promptly submit a report to the Speaker of House of Representatives and to the Committee on Foreign Relations of the Senate on the implementation of each [retransfer] agreement."[36] So far as we know, the second and third of these requirements were not complied with.

The President also has special statutory authority to authorize military assistance and arms export sales, but the exercise of this authority is contingent upon prior consultations with certain congressional committees,[37] which again does not seem to have been done.

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[33] 22 U.S.C. 2314(a); 2753(a)(2).

[34] 22 U.S.C. 2753(a). The Foreign Assistance Act contains a similar provision. 22 U.S.C. 2314(e). This language appears to allow presidential approval if the United States would itself transfer the defense article under some authority other than the Arms Export Control Act (e.g., as part of a covert operation undertaken pursuant to the National Security Act). If this interpretation is correct, the requirement would have been satisfied as to the Iranian project. As we point out in the text, however, there appear to be other formalities that were not satisfied.

[35] 22 U.S.C. 2753(a). The Foreign Assistance Act contains a similar provision. 22 U.S.C. 2314(e).

[36] 22 U.S.C. 2753(a). The Foreign Assistance Act does not contain a similar provision.

It should also be noted that the Arms Export Control Act imposes additional congressional notification requirements for retransfers of "major defense equipment" valued at $14 million or more and for other retransfers valued at $50 million or more. 22 U.S.C. 2753 (d). "Major defense equipment" is defined as "any item of significant military equipment on the United States Munitions List having a nonrecurring research and development cost of more than $50,000,000 or a total production cost of more than $200,000,000." 22 U.S.C. 2794(6).

Assuming that the formalities and congressional notification requirements discussed in the previous paragraph were not complied with, the arrangement with Israel cannot be regarded as a retransfer specifically authorized by the Foreign Assistance Act or the Arms Export Control Act. We do not believe, however, that these statutes are the only authorities that could justify the transaction. Nor do we believe that the three-way transactions involving Israel and Iran are properly analyzed under these statutes.

In evaluating the legal significance of the shipment to Iran of weapons from Israeli stocks, one must focus on the nature of the three-way transaction as a whole. According to Mr. McFarlane's testimony, the transaction was designed to expedite the arrival in Iran of arms that could lawfully have been supplied directly from American stocks; further, Israel participated in the transaction as an accommodation to the American government, and did not itself gain or lose any weapons as a result. Seen in this light, it is apparent that the real nature of the transaction was a bilateral sale between the United States and Iran, with Israel serving solely as a conduit or facilitator in the execution of that sale.[38]

We see no reason to treat the legality of Israel's participation differently than we would treat the participation of any other party that served as a conduit in a lawful covert operation. Had the United States consigned weapons from American stocks to Israel for shipment to Iran, Israel's role would have been exactly equivalent to the role that common carriers or public warehouses play in overt transactions. Because, so far as we know, the weapons that Israel shipped to Iran and received from the United States were completely fungible, a similar equivalence is present here. Just as an illegal sale of arms to Iran could not be made legal by using Israel as a conduit, so too a legal transaction could not become illegal by Israel being used in the same way.[39]

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[37] 22 U.S.C. 2364.

[38] This memorandum does not deal with the financing of the transaction, the details of which are apparently not yet clear. If Israel retained some of the funds that the Iranians paid for the weapons, the analysis might change, depending on whether the retained funds were viewed as a fee in the nature of a brokers' commission or as profit on a resale. Without now deciding how the analysis would differ, we can note that retention of some funds by Israel would make it less obviously appropriate to treat the whole transaction as essentially a bilateral sale of U.S. weapons to Iran.

Several features of the relevant statutes support this analysis. First, the statutes restricting retransfers of American-supplied weapons clearly contemplate situations in which the transferring country, not the United States itself, is the source of the request to make the transfer. The Arms Export Control Act, for example, requires the recipient of American arms (in this case, Israel) to agree not to transfer the arms to a third country (e.g., Iran) without the President's approval,[40] and then goes on to specify certain factors that the President must look to "[i]n considering a request for approval of any transfer . . . ." Clearly, the statute is not aimed at situations in which the President is considering requests from himself for his own approval. The Foreign Assistance Act contains similar provisions, to which the same analysis applies.[41]

The Arms Export Control Act also makes an express distinction between arms exports by private parties in the United States (which ordinarily require an export license) and exports by such private parties "by or for an agency of the United States Government . . . (B) for carrying out any foreign assistance or sales program authorized by law and subject to the control of the President by other means" (which do not require an export license).[42] Analogously, a distinction should be made between Israel's transferring American-supplied arms for her own benefit (which would be subject to the retransfer requirements of the Foreign Assistance Act or the Arms Export Control Act) and such transfers "by or for an agency of the United States Government" (which were not contemplated by the retransfer provisions of those statutes). That Israel's shipments of arms to Iran were "by or for an agency of the United States Government" is clear from (1) the fact that the Israeli shipments were made at the request of American authorities, and (2) the fact that Israel was promised and given identical replacements for the arms that she shipped to Iran.

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[39] So far as we know, there is no legal bar to the use of Israeli help in American intelligence operations.

[40] 22 U.S.C. 2753(a).

[41] See 22 U.S.C. 2314(a)(1)(B); 2314(e).

[42] 22 U.S.C. 2778 (b)(2). Note that this provision appears to assume that there may be arms sales programs carried out pursuant to legal authorities other than the Arms Export Control Act.

## Conclusion

For the foregoing reasons, we conclude that a covert intelligence or intelligence-related operation, authorized by the President and conducted by members of the NSC staff and/or the CIA, could lawfully have included the sale of arms to Iran. Such an operation would have been carried out pursuant to presidential powers recognized in sections 101 and 102 of the National Security Act. An oral authorization by the President would have sufficed to allow CIA participation under the Hughes Ryan Amendment. The use of Israel's American-supplied weapons, under an arrangement by which Israeli stocks were later replenished, appears not to have violated the conditions under which American weapons are supplied to Israel.

Chas. J. Cooper

Charles J. Cooper
Assistant Attorney General
Office of Legal Counsel

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Extract from NSDD 159

dated: January 18, 1985

Subject: COVERT ACTION POLICY APPROVAL
AND COORDINATION PROCEDURES

Approval Procedures for Intelligence

1. Presidential Findings. The President shall approve all covert action Findings in writing. Under Section 662 of the Foreign Assistance Act of 1961, as amended, all covert actions undertaken by the Central Intelligence Agency must be authorized by a Presidential Finding that each such operation is important to US national security. E.O. 12333 and this Directive establish that covert actions (intelligence "special activities") undertaken by components other than CIA also require a Presidential Finding. Each covert action is also considered a significant anticipated intelligence activity under Section 501 of the National Security Act and is subject to certain Congressional reporting procedures. The Congressional reporting procedures for significant intelligence activities apply to all agencies of the intelligence community. Findings shall remain valid until formally cancelled. [redacted]

2. In accordance with Executive Order 12333, the Central Intelligence Agency shall conduct covert actions unless the President specifically designates another agency of the government. When the provision of substantial support by one government component to another is essential to the conduct of a covert action, indication of the extent and nature of that support shall be included as part of the Finding or Memorandum of Notification. However, the provision of routine support in the form of personnel, funds, equipment, supplies, transportation, training, logistics, and facilities by Government components other than CIA to support a covert action shall not in itself be considered a separate covert action by the supplying agency. ([redacted])

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## Committee Hearings

of the

## U.S. HOUSE OF REPRESENTATIVES

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IRAN BRIEFING

Friday, November 21, 1986

U.S. House of Representatives,
Permanent Select Committee on Intelligence,
Washington, D. C.

The Committee met, pursuant to call, at 9:30 a.m., in Room H-405, the Capitol, the Honorable Lee H. Hamilton (Chairman of the Committee) presiding.

Present: Representatives Hamilton (presiding), Stokes, McCurdy, Beilenson, Kastenmeier, Daniel, Roe, Brown, McHugh, Dwyer, Stump, Ireland, Hyde, Livingston and McEwen.

Also Present: Representatives Wright and Michel.

Staff Present: Thomas K. Latimer, Staff Director; Michael J. O'Neil, Chief Counsel; Thomas R. Smeeton, Associate Counsel; Martin C. Faga, Duane P. Andrews, Richard H. Giza and Diane S. Dornan, Professional Staff Members; Jeanne M. McNally, Clerk; Bernard Raimo, Jr. and Stephen D. Nelson, Counsel.

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## C O N T E N T S

**STATEMENT OF:** PAGE

Honorable William J. Casey, Director of Central Intelligence, Central Intelligence Agency
--accompanied by--
Clair George, Deputy Director for Operations
Dave Doherty, General Counsel
Dan Childs, Comptroller
Charles Allen, NIO for Counterterrorism and Narcotics
[redacted] Special Assistant to the DDO
[redacted] Special Assistant to the Assistant DDO
Dave Gries, Director, Office of Congressional Affairs
[redacted] Deputy Director for House Affairs, Office of Congressional Affairs 4

**ALSO PRESENT:**

Honorable Michael H. Armacost, Under Secretary for Political Affairs, Department of State
Honorable Richard W. Murphy, Assistant Secretary, Bureau of Near Eastern and South Asian Affairs, State
Judge Abraham D. Sofaer, Legal Adviser, State
Christopher W.S. Ross, Executive Assistant to the Under Secretary for Political Affairs, State
John Taylor, Deputy Assistant Secretary for Coordination, Bureau of Intelligence and Research, State
Louise Hoppe, Deputy Assistant Secretary for Legislative and Intergovernmental Affairs, State
Honorable Richard L. Armitage, Assistant Secretary of Defense (International Security Affairs), Department of Defense
Major John Bengier, USMC, Office of the Assistant Secretary of Defense (Legislative Affairs), Defense

The Chairman. The meeting of the Committee will come to order.

The Committee meets today to receive a briefing from the Director of Central Intelligence and others on the Presidential Finding dated January 17, 1986 on Iran. That Finding was not provided to the Committee until November 14, 1986, and then only after details of U.S. arms shipments to Iran and of secret meetings between White House emissaries and elements of the Iranian government leaked to the press from sources in the Middle East and the Administration.

Director Casey has less than two hours to spend with the Committee this morning. I suspect Mr. Director, that the two hours will not be sufficient to cover all the questions that Members may have. We will certainly submit some questions to you in writing and after considering those responses, we may very well like to meet with you again.

I should say that we met for about an hour-and-a-half this morning with Admiral Poindexter and he gave us a rather thorough chronological review of the facts of this situation, and that explains our tardy arrival here. We are very glad to have you with us, Mr. Director, to tell us about the Finding.

You are accompanied by the honorable Michael H. Armacost, the Under Secretary for Political Affairs, and the Honorable Richard L. Armitage, Assistant Secretary of Defense, and if there are others who participate, you might want to introduce them as you go.

We are glad to have all of you gentlemen with us, and we look forward to your statement. You may proceed.

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STATEMENT OF THE HONORABLE WILLIAM J. CASEY,

DIRECTOR OF CENTRAL INTELLIGENCE

Mr. Casey. Thank you, Mr. Chairman and members of the Committee.

The last five years, both the national security community and the intelligence community have been keenly aware and constantly concerned about the geopolitical position and strategic significance of Iran. Much thought and effort has been devoted to how we might develop contacts and relationships which would provide a better understanding of what is happening there and establish contacts and relationships which might lead to improved relationships later on.

I recall speaking to [redacted] about the importance of our identifying and establishing contact with leaders in a future Iran. [redacted] said we do not know who will emerge to lead Iran in the future, but that we must gather all the strands, gather all the strands and hold them in our hands so that we will be ready.

[redacted]

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[redacted] In the early fall of 1985, Bud McFarlane after one of the weekly meetings in which he as National Security Adviser and his deputy had with me and my deputy, Bud asked me to stay behind. He told me about the discussions he had had at the highest levels in Israel urging the desirability of discussions with officials in Iran and offering to us channels of access. He said that for obvious reasons, only a handful of people in the Israeli and American governments knew about this effort. McFarlane emphasized that the purpose of these discussions would be the future relationship with Iran and Iran's great importance in the East-West and Middle East-Persian Gulf political equation, political strategic equation.

Now, that was the beginning of my first inkling of this.

The CIA's involvement began in late November of 1985 when the Agency was there asked to recommend a reliable airline that could transport bulky cargo to an unspecified location in the Middle East. This requirement specified that the carrier had to be reliable and able to move rapidly, quickly.

A propriety of ours which regularly took on commercial ventures was designated. When the plane got to Tel Aviv the crew was informed that the cargo was spare parts for the oil fields and that it was to go to Tabriz.

Our [redacted] back in Washington decided that in order to protect the plane, our [redacted] should be asked to get flight clearances into Iran, and this was done.

On 25 November 1985, the plane dropped the cargo in Tehran. To the best of our knowledge, neither the Israelis nor the Iranians knew that they were dealing with a CIA proprietary, and believed it to be just another commercial charter airliner. The airliner was paid the normal commercial rate which amounted to approximately $127,000.

This little activity was autyorized by our Associate Deputy Director for Operations. I was out of the country at the time and then Deputy Director John McMahon was in charge. He approved the flight as an urgent mission in keeping with proprietary normal business, but he directed that we would not provide any future flights into Iran in the absence of a Finding. This flight was done without a Finding.

In the meantime, the Israeli proposal of holding the possibility of discussion with Iranian officials, including making small shipments of arms to establish our good faith and induce them to use their influence with those holding our hostages, all this was being discussed at meetings of the NSPG principals in December, again in January, and these discussions, there were differences of view about the desirability of this policy, but it was decided that it should be cautiously pursued.

On December 7, 1985, Bud McFarlane, then the National Security Adviser, met in London with Israeli officials and the Iranian ex patriot who was their intermediary to the Iranian government or factions in the Iranian government.

At this meeting, McFarlane stated our goals of pursuing the relationship with Iran as four-fold, first devising a formula for reestablishing a strategic relationship with Tehran; second, ending the Iran-Iraq war on honorable terms; three, convincing Iran to cease its support for terrorism; and finally, helping ensure the territorial integrity of Iran, and coordinating ways to counter Soviet activities in the region.

McFarlane made clear that in this relationship we would expect Iran to use its influence to achieve the release of Western hostages in Lebanon. He also made it clear that we could not and would not engage in trading arms for hostages.

This matter was discussed again several times with the President and others in the national security community following the December McFarlane trip.

On January 17, 1986, President Reagan signed a Finding directing the CIA to provide operational and logistical support for a program aimed at three objectives specified in the Finding, first was to establish a moderate government in Iran; second, obtain intelligence to determine the current Iraning government's intentions with respect to its neighbors and with respect to terrorist acts; and three, further the release of American hostages held in Beirut and preventing further terrorist acts by these groups.

The Finding stated that the U.S. government would provide moderate elements within and without the Government of Iran with arms, equipment and related materials in order to enhance the credibility of these elements in an effort to achieve a more moderate government in Iran, and by demonstrating their ability to obtain resources to defend their country.

In the Finding the President directed the CIA to refrain from reporting the Finding to the Congress until otherwise directed.

The Finding was reviewed and concurred in by the Attorney General.

At the time this Finding was being drafted, the CIA's Office of General Counsel provided a legal opinion that the

President does have the authority to withhold prior notice of operations from the Congress in certain circumstances. Section 501 of the National Security Act expressly provides that notification of intelligence activities to the Congress shall be provided to the extent consisting with all applicable authorities and duties, including those conferred by the Constitution.

The Act also states that the intelligence committees be informed of activities for which no prior notice was given at the appropriate time as determined by the President.

This, according to our lawyers, is a clear recognition that extraordinary circumstances could lead the President to conclude that notice of an operation should be withheld in whole or in part. The history of the Oversight Act shows that an accommodation recognizing both the President's constitutional responsibility and authority and congressional oversight responsibility and authority was reached in the legislative process, a nod is made to both sets of authorities and responsibilities.

In a subsequent procedure agreed upon by the DCI and SSCI and also with this committee on reporting covert action operations, they provide that advance reporting of such operation should also be subject to the exceptional circumstances contemplated in Section 501 of the National Security Act, and those exceptional circumstances being when the President elects to exercise his constitutional authority.

The President has instructed me today to advise you of his conclusion that the activities authorized by the Finding justified withholding prior notification due to extreme sensitivity of the dialogue being established and determining the fact if the program became known, those carrying out the dialogue, both U.S. and Iranian, and the American hostages in Lebanon, would be put at a greater risk.

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[redacted] on February 5 to 7, the U.S. officials, NSC people, a representative of the Israeli Prime Ministry, and a senior level Iranian official met in Germany. At this meeting the U.S. side emphasized its desire to enter into a dialogue with the Iranian side.

The Iranians raised their desire to receive U.S. weapons. The U.S. agreed to explore this possibility. Working with the Israelis, the following mechanisms for transfer of any weapons was established.

First, the Iranian intermediary would deposit funds in an Israeli account, the funds would then be transferred to a sterile U.S.-controlled account in an overseas bank. Using these funds the CIA would work with the Army Logistics Command to obtain any material and the material would then be transported to Israel for future shipment to Iran.

Using these procedures, $5.7 million was deposited in the CIA account in Geneva on 11 February 1986 for the purchase of 1000 TOW missiles and of course associated with that, shipping and so on.

On 15 February the Office of Logistics personnel at CIA delivered the thousand TOW missiles to Kelly Air Force base in Texas. The missiles were then transported to Israel for shipment to Iran. The CI was not involved in the transportation of the shipment.

Then on 19-21 February NSC and NIA officials and Iranian officials met in Germany again to discuss problems in arranging a meeting among higher level officials. At this meeting the U.S. side agreed to provide a thousand TOWs to Iran and a clear signal of U.S. sincerity and support for the faction we were talking to. This is a faction of the Iranian government. Not the government itself.

This meeting delivery was commenced on the morning of 20 February, and completed in two transits to Tehran on 21 February.

Transportation from Israel to Iran was aboard a false-flag Israeli aircraft.

On 24 February the same U.S. officials traveled to Germany and met with the Iranian intermediary and an Iranian government official. At that meeting, the Iranian government official provides a list of varying quantities of approximately 240 different spare parts needed for the HAWK missile batteries provided by the U.S. government to Iran back during the Shah's reign.

The Iranian official asked the U.S. position on providing these spare parts and as additional parts that this channel had the approval of the authorities in the U.S. government.

On 25 February the U.S. officials as they continued to do in later contacts with the Iranians provided the Iranians with limited information designed to encourage an Iranian decision to negotiate an end to the war and to increase Iranian awareness and concern of the Soviet threat on the Iranian northern border.

Throughout March and April the Office of Logistics, our Office of Logistics, worked with the Defense Department to clarify the items on the Iranian's list of spare parts, and identify which items were in Defense Department stocks. On 7 March CIA and NSC officers and Israeli representatives met with the Iranian intermediary in Paris to determine whether any further progress was possible in arranging for a high level meeting, higher level meeting with U.S. and Iranian officials.

During this meeting the intermediary, Iranian, emphasized the deteriorating economic situation in Iran and Iranian anxieties regarding increased Iraqi military effectiveness. You may recall back there it was a time in which it looked like the Iranians might sew the war up and the Iraqis came back rather strongly in that period.

Based on assurances that we could at last meet face to face with top level Iranian officials, on May 15 President Reagan authorized a secret mission to Tehran by former National Security Adviser McFarlane, accompanied by a CIA annuitant who spoke Farsi and was very knowledgeable about Iran; a CIA communicator, members of the NSC staff, and Israeli and Iranian interlocutors.

On May 16 the Iranians provided $6.5 million through an intermediary for HAWK spare parts and additional -- and an additional 508 TOW missiles.

The receipt of the Iranian funds set in motion arrangements for the planned visit to Iran as follows:

the CIA Office of Communications provides secure communications equipment and the services of the communications officer to travel to Iran with this team. Our Office of Technical Services was tasked to provide 10 [redacted] passports for the use of the team and the air crew of the aircraft which would fly from Israel to Tehran. The Iranians insisted on the use of non-U.S. passports, and [redacted] passports were chosen because the Israeli aircraft used for the journey carried [redacted] registration numbers.

The next contributor was the Office of Logistics in the CIA in assembling the pallet of HAWK missile spare parts at Kelly Air Force Base. The parts were then transported to Israel by a private contractor. In the Office of Logistics delivered 508 TOW missiles to Kelly Air Force Base for onward shipment to Israel again by a private contractor.

On 25 May the U.S. team traveled to Tehran via Israel. The CIA provided two members of the team, a communication officer, and the Farci speaking annuitant who had considerable experience in Iranian affairs. He provided translation services and advice to the team and he continued to be involved in subsequent meetings with Iranian representatives.

He is our principal Iranian expert.

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The U.S. team brought a single aircraft pallet of HAWK missiles with them at the time of the meeting to Iran. It was decided the greater portion of the spare parts would stay in Israel for later delivery to Iran pending further progress in establishing the "dialogue".

We understand that those spare parts were ultimately delivered to Iran.

These meetings in Iran ran 25 of May to 29, were held with high level Iranian officials, the first direct contact between the two governments in over six years. Mr. McFarlane and his team were able to establish a basis for a continuing relationship and clearly articulate our objectives, concerns and intentions.

The group in their discussions and observations was able to assess firsthand the internal political dynamic in Tehran and the effect of the war on the city. Using Presidentially-approved terms of reference, talking points, which had been reviewed and approved by appropriate cabinet offiers, McFarnale emphasized our effort in Iran transcended the hostages, but also that the continued detention of hostages by a Lebanese group philosophically aligned with Iran was an impediment to progress.

During the visit McFarlane made clear that we fundamentally opposed Iranian efforts to expel us from the Middle East, we firmly opposed the use of terrorism,

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that we accepted their revolution and did not seek to reverse it and we had numerous other disagreements involving regional policies, Lebanon, Nicaragua, et cetera, that might also find areas of common interest [redacted] through dialogue.

On 19 September, three Iranians traveled to the United States for detailed discussions with the U.S. team. These discussions reaffirmed the basic objectives, our basic objectives in seeking a political dialogue with Tehran. Throughout August and September numerous additional meetings were held in Europe between U.S. representatives and the new Iranian contacts in an effort to develop the dialogue authorized by the Presidential Finding.

On 6 October those Iranians traveled to Frankfurt for meetings with the U.S. team. [redacted]

On 26 October more meetings were held in Frankfurt with the same participants 20 days later. [redacted]

[redacted] The Iranians preferred and the U.S. accepted the offer of a Soviet T-72 tank [redacted]. On 2 November the Iranians provided $2,037,000 and our Office of Logistics procured 500 more TOW missiles from the Department of Defense.

Those missiles were delivered by the Office of Logistics at Kelly Air Force Base on 6 November. A U.S. Air Force C-141 aircraft carried the missiles to [redacted] where they were trans-shipped by a CIA air proprietary which carried the missiles to Israel.

This, members of the Committee, broadly, quickly brings the record of CIA involvement in these activities authorized by the 17 January 1986 Presidential Finding, brings that record up to date, as of the present time. Just to summarize it briefly, a total of 2008 TOW missiles along with various HAWK missile spare parts were delivered under this Finding of 17 January 1986, a thousand TOWs were delivered in February 1986, 608 in May 1986, and 500 in November 1986.

We should note that none of these weapons came from CIA stocks. They were all paid for by the Iranians. We received no request to require any more material of any type for shipments to Iran under this program.

I would like to reiterate that the funds for the material I have enumerated as well as all associated costs were provided by the Iranians, funding for Iran was transferred to CIA for deposit in a covert funding mechanism, funding from Iran. This action provided secure means for controlled payment and accountability of all the funds associated with this program. The Iranian funds, a total of $12,237,000 were deposited in a special account in a Swiss bank. The only costs incurred by the CIA in this activity were expenses for the travel of CIA officers involved in the rehearsed meetings, the cost of hotel rooms [redacted] for the two meetings held there in October, and operational support such as [redacted]

This operational support cost about $48,000. These costs have been charged against normal operational accounts and since all travel by CIA officials is routinely charged to such accounts to do otherwise in the case of trips undertaken for this program would have compromised the security of the activities.

That concludes my testimony. I am confident that it is complete as to the basic facts of CIA involvement, but in closing, I would like to assure you that we are still combing our records and will promptly report any new information that comes to light.

That is my statement.

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The Chairman. Thank you very much, Mr. Director.

Before calling on our majority leader and minority leader for questions and we will of course operate under the five-minute rule, the Chair simply wants to challenge your interpretation, Mr. Director, of the notification statutes and to put on the record our view which I am sure is familiar to you.

The statute provides that the intelligence committees of Congress should be given prior notice of these activities. There is a provision which provides that in extraordinary circumstances which affect the vital interests of the United States there shall be limited prior notice to 8 persons, the House and Senate majority and minority leaders and chairmen and ranking minority members of the two intelligence committees.

If prior notice is not given the President must inform the twointelligence committees in a timely fashion.

Now it seems to the Chair at least that the provision in the statute which provides that under extraordinary circumstances there is limited prior -- a limited prior notice procedure available, was the manner in which you should have proceeded here.

The Congress so far as I know and certainly this committee has not recognized a constitutional basis for the President to withhold information from the Congress.

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We have never accepted that the President has the power to withhold information. I am aware of course that the President has never conceded that he does not, under certain circumstances, have that power, and so far as I know the courts have never resolved the question.

Insofar as the Chairman here is concerned, I conceive of almost no circumstances which would warrant the withholding of prior notice except perhaps in the exceedingly rare situations where the President simply does not have sufficient time to consult with the Congress.

Now, obviously in this case the Iranian arms transfers are not circumstances that involve a swift response with no time to notify the Congress. If I understood your statement correctly a few moments ago, you said that the covert action of the arms transfers to Iran was simply too sensitive to be reported to the intelligence committees or to be reported to the leadership group.

May I suggest to you that such an interpretation of the statute very severely undermines the oversight role of the intelligence committees and the efficacy of the Intelligence Oversight Act. It is a position that the Chair at least simply cannot accept.

The logic of that position is to arrogate solely to the President the protection of sensitive intelligence operations and I think that responsibility under the statute's legislative history is to be shared by both the President and by the Congress.

I would simply point out to you that on very routine basis this committee receives information of the highest security classification, including information which if disclosed would lead to the loss of life and would compromise programs costing hundreds of millions of dollars, and that the security record of the Committee has been a good one.

I do not think that concerns about leaks can rise to the level of constitutional principle, and it is my view at least precisely in this area where political, the political and policy area, that the advice of the Congress prior to the initiation of covert action is relevant and important, and indeed I would suggest to you that a lot of mistakes and difficulties could have been avoided in this instance had that practice been followed.

So, Mr. Director, I know what I say is not new to you. It is a matter that frequently comes up between the two branches of government, but I did not want to let stand on the record your view of it without responding to it with our view.

We will proceed now under the five-minute rule and I will yield to the majority leader, Mr. Wright.

Mr. Wright. Thank you, Mr. Chairman.

Further, pursuant to the matter which you have just raised, this it seems to me is the central matter involved since it goes to the very heart of the future relationship between this committee and the agencies of the Executive Branch of government.

I want to turn to the words which are reported to us as representing the Findings of January 17. Under the Finding as submitted by the Director of Congressional Affairs for the Central Intelligence Agency, dated January 17 of this year, the President is supposed to have said I hereby make some findings -- due to its extreme sensitivity and security risks, I determine it is essential to limit prior notice.

Now, the terms "prior notice" and references to sensitivity and security are implicit in the statute. The statute does anticipate situations where for reasons of time or extraordinary circumstances affecting vital interests of the United States prior notice may be limited -- as the Chairman points out -- but clearly directs that in any such case notice must be given, prior notice must be given in a limited way to the eight people enumerated in the statute.

I read it to you, if the President determines it is essential to limit prior notice -- here is what he says -- I determine it is essential to limit prior notice -- these words from his Finding. These words from the statute, if the President determines it is essential to limit prior notice to meet extraordinary circumstances affecting vital interests, and so on, such notice shall be limited to the Chairman and ranking minority members of the intelligence committees, the Speaker and Minority Leader of the House, and the Majority and Minority Leader of the Senate.

That is prior notice.

Prior notice was given to the people of this kind in the invasion of Grenada and in the bombing of Lebanon. Now the President further makes reference to extreme sensitivity and security risks and those have been addressed by the Chairman, also. But I call your attention to Subsection E, nothing in this Act -- nothing -- shall be construed as authority to withhold information from the intelligence committees on the ground that providing the information to the intelligence committees would constitute the unauthorized disclosure of classified information or information relating to intelligence sources and methods.

So then upon that basis, the President goes on to say, I direct the Director of the Central Intelligence to refrain from reporting this Finding to the Congress as provided in Section 501.

This I am sure you understand sets up a matter of utmost gravity. I must ask you, we understand you are carrying out orders from your Commander in Chief, we

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understand that. We are not directing our animus towards you for doing that I don't think, but it is a matter of extreme importance. If the President were free to make some arbitrary determination of his own in each case as to whether he wants to submit information under the statute, then the statute is meaningless. We are curious, I think, to know are there any other circumstances, are there any other Findings under which the President has directed you not to follow this statute?

Mr. Casey. No, there are not. But I say I stated as far as I know, there are only two Findings since we have had official statutory oversight where this constitutional prerogative has been exercised. They are this one and the Iranian rescue mission in 1980.

Mr. Wright. Right.

Mr. Casey. Where President Carter also directed it, that Congress not be given advance notice, even though it may have been required.

Mr. Wright. I accept that statement.

To your knowledge does the President intend to transmit formally to the intelligence committees a statement of his reasons for not providing prior notice? Section 501(b) which indicates situations in which prior notice may be limited -- not foreclosed, but limited -- says that the Director of the Central Intelligence Agency and heads

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of all departments and agencies shall furnish any information or material concerning intelligence activities which is requested by either the intelligence committees and report in a timely fashion to the intelligence committees any such activity of a special nature that was undertaken. It says the President shall fully inform the intelligence committees in a timely fashion of intelligence operations in foreign countries for which prior notice was not given under Subsection A and shall provide a statement of the reasons for not giving prior notice.

To your knowledge, is that being done by the President?

Mr. Casey. Well, I am here to do it now, to begin that process now and I will be glad to develop any further statement that anybody deems to be appropriate.

Mr. Wright. Subsection A provides that the Director of Central Intelligence shall do it, Subsection B provides that the President shall do it. I wonder if you have any knowledge as to whether the President intends under Subsection B to provide this statement to the Congress?

Mr. Casey. I don't know that he has any intention or non-intention or lack of intention to do so. I have not heard that he intends to.

Mr. Wright. Subsection B --

Mr. Casey. I am here to see what you think you ought to have.

Mr. Wright. Subsection B is clear, the President shall fully inform the intelligence committees in a timely fashion of intelligence operations in foreign countries other than activities intended solely for obtaining necessary intelligence for which prior notice was not given under Subsection A and shall provide a statement of the reasons for not giving prior notice.

I just think, Mr. Chairman, this is the central problem. There are many factual questions that I know the Committee will want to resolve and I appreciate the presence of the Director of our CIA. But I do think it is vital from the standpoint of the integrity of the Legislative Branch that we just have to call attention to the fact that there cannot be unlimited discretion on the part of any one person as to when he will abide by the law or when he will decide to direct his appointees to withhold information that is compelled to be given under the law.

That is all I would like to stress.

The Chairman. Mr. Michel.

Mr. Michel. Thank you, Mr. Chairman.

I must say that I share the concern of the Chairman and the Majority Leader on this issue of timely notification. Mr. Casey, were you using the 1980 incident as your sole precedent for -- and in any consultation you might have had with the President in advising him what your obligation was?

Mr. Casey. Not as the sole precedent. I have used the dialogue that has taken place over five years between the Executive and the Congress with respect to this issue, with respect to whether or not there is a constitutional prerogative which is beyond that which is specified and laid out in the legislation itself.

And various general counsel, legal authorities, directors, have specified the nature of that and that has been the position of the Executive right on through. This has been an ongoing discussion and debate between the Executive Branch and the Legislative Branch and all of those precedents were considered and discussed and our general counsel formulating the opinion on which the Finding was developed, and the attorney general's endorsement of that opinion.

Mr. Michel. Well --

Mr. Casey. There was only one actual precedent when it was done, but it is asserted and discussed and in the legislation, the modification of the Hughes-Ryan Act which occurred in 1980, there was discussion and debate exhaustively on the Hill, and it was agreed to disagree.

Mr. Michel. The Agency does have a counsel, right?

Mr. Casey. Oh, sure.

Mr. Michel. And has the Agency's counsel, has that been his judgment all along?

Mr. Casey. Yes.

Mr. Michel. To be perfectly consistent with whatever the counsel in the White House has been or if they have been relying on the attorney general for advice?

Mr. Casey. I think for the most part the thinking and the work has been done by the Agency's counsel and there has been a consistent view between the successor general counsels and the successor directors that share that view.

So it has been a consistent position from the Agency ane that has been applicable in support of the President all the way through President Carter as well as President Reagan, President Ford and President Nixon.

Mr. Michel. Well, that one word, you know, timely, timely notification -- admittedly there can be a variety of interpretations.

May I simply ask you man to man on the most sensitive of any kind of issue, do you think it is timely notification that one half year or more should transpire before those of us in leadership positions in the Congress should be advised of a matter?

Mr. Casey. We are talking here about a constitutional prerogative which Presidents have claimed and the need for that claim in their view is related to the circumstances, and if there is an ongoing situation, in the first instance in which it was justified, and the risk remains the same until the circumstances change, then I think the time has to be a flexible factor.

Now, in my view if the claim was justified in the first place, the need for that care and caution did not abate during that period of time, and I can tell you that those with whom I have discussed it and the amount of thought we have given to it have always had in mind that if we reach a point where the risk was -- as President Carter said when he directed Stan Turner to tell the Congress when it was, tell the Congress when you think the risk has been removed.

I think the same thing prevails here.

Mr. Michel. But refresh my memory. What was that time element in that situation?

Mr. Casey. It could happen very quickly because the thing failed. In a few days there was no longer any risk in talking about it.

Now, this continued in our view and the President's view, continued to be promising and very prospective and we continued to develop progress and the need to be careful and maintain the security of the operation did not abate in any significant way. What I think was -- what I always had in mind when I thought about it was that the time when either the project failed or when we didn't care any more or when it succeeded, that would be the time we would report the whole thing and tell what happened.

Mr. Michel. I will yield back, Mr. Chairman.

The Chairman. The Chair wants to point out that the statute under which we are operating here came into effect subsequently to the Iranian hostage operation under President Carter. So we are proceeding under a different law at that time.

Mr. Casey. I think the constitutional principle is the same.

The Chairman. I understand, yes.

Mr. Stump.

Mr. Stump. Thank you, Mr. Chairman. Thank you for the presentation, Mr. Casey.

On the question of prior notice, I think the President has always made it clear that under some circumstances he does have the right to withhold prior notice as a matter of interpretation. On the question of timely fashion, it is strictly an interpretation. When you are dealing with people like we are dealing with in this instance, that have no concern for human life, there is a question of our national security and I think the President is perhaps within his right to define timely fashion as he sees fit.

Had the operation been completed I am sure he would

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have been in here. Had the operation been successful I am sure much of this criticism would have been abated. But nonetheless, there is reason to believe that the President has authority under both circumstances in my opinion.

Let me ask you a question, I think too much focus has been on the case of the hostages. There are other reasons for perhaps us to have entered this. That is to try to maintain a balance between Iran and Iraq, to deter Soviet aggression and influence in that area. Would you comment on this and why has not more been made of this matter?

Mr. Casey. Well, I think that as I indicated in my statement, that the initial purpose was to develop a better long-term relationship with Iran because of its geopolitical and strategic significance. Mr. McFarlane developed that we cannot have a good strategic relationship or partnership or cooperation with you guys if you are going to keep grabbing our people and you are going to have people who we think you have some influence over continue to hold our people, and therefore you got to clear the atmosphere, clear the terrain by helping get these people out and they tried that, we saw repeated efforts on their part and we saw a reluctance on the part of the Lebanese people actually holding the hostages to let them go, and they give them up grudgingly.

A lot of the elapsed time during this period we are talking about, elapsed, it was chewed up, seemingly chewed up in their trying to exert the limited influence they had on these people who held the hostages who had their own purpose which was to get some of their own relatives out of prison in Kuwait.

So it was like kind of pulling teeth to get them to lean and pressure these Hezbullah Lebanese, Shiias, to give them the hostages so they could keep the thing going with us.

This is not new. [redacted] So the notion of other nations trying to lean on these people who had the hostages to get them to give them up entirely or step by step, is not unique to this relationship.

Mr. Stump. Thank you, Mr. Chairman.

The Chairman. Mr. Stokes.

Mr. Stokes. Thank you, Mr. Chairman.

Mr. Casey, intelligence information obtained by the Committee shows that Iranian officials often [redacted] direct linkage between arms shipments and the release of hostages. What is your understanding of these intelligence reports?

Mr. Casey. Well, I know there have been an enormous amount of reporting. We really haven't sifted through it in an organized way, we are willing to have you work with us on that. [redacted] they wanted to get the hostages in order to carry the dialogue on and also they wanted to get arms for the hostages.

So that if you look at the totality of the intelligence it is quite ambiguous and you have to conclude, I think, that there was a mixed motivation on both sides.

I don't think you can say it was totally Hezbullah hostages, I don't think you can wipe out the other considerations.

Mr. Stokes. It has also come to the Committee's attention that intelligence information collected over the past 12 to 18 months reveals that Iran was negotiating and may have received arms shipments totaling as much as $200 million. It further appears that these arms shipments may have included U.S. SIDEWINDER, PHOENIX, SPARROW, and possibly HARPOON missiles.

Firstly, I guess my question is, are these reports correct and if they are, who provided them these arms?

Mr. Casey. Well, as far as I am concerned I don't know that anything was provided except the things I have itemized here. I do know that there was a huge effort on the part of the Iranians, huge worldwide effort to use every device that they could possibly figure out or find a way to use to get whatever weapons they could get. And certainly they were trying to bribe and acquire illegally, legally or illegally, the kind of weapons that you have enumerated.

This was a very large operation and we had a, made a large effort to get other countries not to cooperate with it but I think it is clear that they did succeed in getting some of those weapons from third countries, other countries were supporting them and helping them, but some were doing it for, out of sympathy more frequently than were doing it out of greed and trying to make money on this kind of mostly illegal operation.

Mr. Stokes. So the probabilities are that through some other source that they did obtain these weapons that I have made reference to?

Mr. Casey. I am sure of that. They got some of those weapons.

Mr. Stokes. And did we pass this information on to any other government officials outside the intelligence community?

Mr. Casey. Oh, I think so. I think that the State Department made a strenuous effort to get other nations to refrain from doing this and tighten up the controls and procedures so that the Iranians could not break through and find ways to get this material.

Mr. Stokes. Let me ask you this: In light of Mr. McFarlane's statement last night where he said that he accepted responsibility for the Iranian affair, he stated further that it was a mistake and showed bad judgment, do you share that same assessment?

Mr. Casey. No, I don't. I think that it was -- it may have been a mistake but I don't think it was bad judgment. I think it was a bona fide attempt in which the things we committed were rather small and certainly proportionate to the magnitude of the things we were trying to achieve. I think the important thing that we were trying to achieve was -- considerably outweighs the loss of the amount of weapons that were passed out.

You can come back and say we shouldn't have broken the line. That is a judgment call. I happen to think and I have thought from the beginning that this Iranian situation was a very, very dangerous one and that we should do whatever we could do to try to correct it and improve it.

I did not think that these gestures that we were making were significant in relationship to what we were trying to achieve. You got to take those risks, or sit and let the world go by. I personally was in favor of taking the risks in a cautious and prudent way, and I think they were taken in a cautious and prudent way. When you don't make it you always can be second-guessed.

I wouldn't now be willing to say I wouldn't take the risk if I could do it over again.

The Chairman. Mr. Ireland.

Mr. Ireland. Thank you, Mr. Chairman.

I would yield to Mr. Hyde, if you want to follow up on something.

Mr. Hyde. If the gentleman will yield to me, thank you.

I just wish Mr. Wright were still here but I want to make a point about the wisdom of not notifying Congress and the legal requirements that Congress be notified. As to the wisdom of doing it I think it was very unwise for the Administration, and you are sitting there for the Administration, unfortunately, it is not your fault I am sure, but for the Administration in very risky matters not to understand they have some friends on the Hill in both parties and who might be able to put something into the computer that the professionals don't and that is political consequences when the thing is blown, not if, but when. And until that is less -- until that lesson is learned we are going to have a lot of problems.

Secondly, the legal effect of the law, as a lawyer I have learned in my second or third day in law school, read the statute and then read it 50 more times and then you may understand it. But the statute clearly provides that to the extent consistent with all applicable authorities and duties, including those conferred by the Constitution -- you have to say what does that language mean, those are weasel words, you're damn right they are. That is latitude to the President.

Then it goes on to say, and to the extent consistent with due regard for the protection from unauthorized disclosure of classified information and information relating to intelligence sources and methods -- now if that is not an escape hatch in so many words I have never read one.

So the President clearly doesn't have to if in his judgment, not Ann Landers' judgment, his judgment, that unforced disclosure as might likely happen -- and we have all sat here and heard Secretary Shultz right where you are plead with us not to talk about an operation in Libya that the next day was in Bob Woodward's column, the next day. Now you go back down to the President shall fully inform the intelligence committees in a timely fashion of intelligence operations in foreign countries.

One could argue that this was a diplomatic initiative and not an intelligence operation, but clearly that is sophistical. They overlap. I wouldn't take refuge in that unless one is before the Supreme Court or something. But this is deliberate useful vagaries. The law is full of vague terms and they are vague because they have to be.

What is approximate cause? What is the reasonably prudent man? What is beyond all reasonable doubt?

Now, timely can clearly mean more than chronological sequence. It can mean operational maturity. It can be different than and more than chronological time.

Now, that said I think it is important to look at the debate when this bill was adopted and what higher authority than Eddie Boland who adverted to the agreement to disagree which Mr. Casey mentioned.

And I say this for my colleagues and I wish Mr. Wright was here. Here is what Eddie Boland said September 30, 1980 when this was debated. "The President has made clear his belief that under some circumstances he may have the constitutional authority to withhold prior notice. Of course the Congress has certain constitutional authorities as well as its own opinion on such constitutional authorities. The Conference Report neither asserts nor denies a constitutional right to withhold prior notice. Rather, it recognizes that there exists authorities and duties for both Executive and Legislative Branches of the government and most importantly, it leaves the Constitution as it finds it which -- which is a great concession.

When prior notice is not given to the committees or to the smaller group of eight, the Conference Report makes clear that the full intelligence committees must receive reports on the covert action operation in a timely fashion; then you go to Les Aspin who also was unhappy with this agreement to disagree and here is what Les Aspin said.

There is second, of course, the possibility and I guess the statutory possibility that the Administration can in effect just waive the whole thing. I think it is vague under whether the Administration does have the constitutional authority or under sources and methods to in fact not inform the Committee.

Now get this, we had a chance in our bill here to make this very specific and to clear up once and for all that matter. We could not clear it up because there was A, irrevocable difference as to what the Constitution gives the President. We could not in effect come to any agreement on that. So what we have done in this language is in a sense still left it vague. I think that is an unfortunate.

But I think that debate, the very terms of the statute, ought to put to rest that there was a statutory violation of the law. Now again as to the wisdom of it, I think clearly it was unwise and I hope that sort of error -- it is a political error -- doesn't happen again. But I also would cite the Canadian caper where we had the operation with the Canadian Embassy in Tehran and where you get people who are going to cooperate with us provided we don't disclose to Congress and you said okay and you have an operation or you betray their confidence and you don't have an operation.

So I just appeal to my friends here and my colleagues to distinguish between the unwisdom of not bringing some Members of Congress into their confidence for their input which they ought to have done, and the legality of this. This statute was drafted to be vague because it recognized that two schools of thought and there is no way to reconcile them and there is no court going to reconcile them because they will not jump into separation of powers and say to the President, you cannot do this or Congress, you cannot.

It was deliberately vague, usefully vague just like the War Powers Act is, and there is really no resolution except to hope better judgment is used on the part of those who have the function of using it.

I thank the gentleman for yielding his time.

The Chairman. Mr. McCurdy.

Mr. McCurdy. So much for Andy.

I concur in the questions of the wisdom used and perhaps even the intent. I think I would have to agreed that the statute is vague and in reading the legislative history it was deliberately left so and that there are going to be questions. I think the Chairman is accurate in asserting his interpretation and was certainly within his rights and the Committee should exert its position there because it is not a question of just the legality. If we start looking over these statutes on every issue that comes before this committee and start using Webster's on every single Finding and if we get into this debate of whether or not to inform or work with us, then it becomes a totally adversarial relationship which is destructive not only to this committee but to the Congress of the United States and to you.

Credibility is the issue, not just legalese. I am a lawyer, there are many lawyers here. But that is not the issue, Mr. Hyde.

Mr. Hyde. I was with Mr. Wright. That is my point. I agree with you.

Mr. Beilenson. He is not a lawyer.

Mr. McCurdy. If the gentleman would allow me, I think the question here is, you know, there are probably people in this room not cleared for some of the operations that we have approved in this committee that are as sensitive that endanger human life, that have been revealed unfortunately -- we don't know if they have been. We don't know what Howard revealed sitting in Moscow. We don't know some of these things that are going on today.

They are just as sensitive.

I find it very difficult to sign on to any particular case here. I don't think there is a person here that disagrees with opening contacts and probing potential relationships with Iran. I don't know about Iraq. Do we have a similar probe going with Iraq if our goal is to solve the war? What are we doing with Iraq? I think we need to have a briefing on that at some point, and the whole question of the merits on the other side of this.

Mr. Casey. I will be happy to do that.

Mr. McCurdy. Why was the NSC staff chosen to manage and conduct this operation? Why down in the basement of the White House? Are they now the people that are the operatives to the Middle East? I thought when we had the briefings it was the CIA who was knowledgeable, who lived in the region, knew the people, and CIA were the operatives. Has the NSC managed similar operations involving transfer of arms?

Mr. Casey. I am trying to think. Apart from the Central American thing which has NSC people involved in it, I don't know of any.

Mr. McCurdy. Has this operation put the NSC staff in the position of actually implementing policy as opposed to advising and coordinating foreign affairs recommendations to the President which has been the traditional role, and if that is not the case, or if that is the case does that not remove them from the cloak of Executive Privilege? Are they not then subject to oversight as you are, as the DIA, the Department of Defense, State Department, and every other Executive agency?

Mr. Casey. Their principal role is to advise the President. I don't think that principal -- I don't think their principal role is to implement.

Mr. McCurdy. So you agree -- do you think they became implementers in this case?

Mr. Casey. I suppose they did implement, they participated in the implementation.

Mr. McCurdy. Who managed the operation, Mr. Casey?

Mr. Casey. I think we were all in it. It was a team.

Mr. McCurdy. Who headed the team? Who called the shots? Was it Poindexter or Casey?

Mr. Casey. I think it was the President.

Mr. McCurdy. Okay.

You made some statement and I didn't catch it totally about T-72 tank being acquired or delivered or what was that?

Mr. Casey. Yes, they offered to deliver a T-72 tank [redacted] and --

Mr. McCurdy. In exchange for --

Mr. Casey. Yes, just to provide. They offered to provide it to us.

Mr. McCurdy. Was it provided?

Mr. Casey. It was ready to go but apparently it was held up in Iran as part of the cost of the publicity, and premature blowing of the operation.

Mr. McCurdy. I have only one last question. Has Iran been implicated, is there evidence whatsoever within the CIA that they still have a connection to terrorism and direct support to terrorism in the Middle East?

Mr. Casey. Oh, yes, Iran still does practice terrorism in the Middle East. The faction we have been in touch with takes the position and claim that they are against that and they are trying to steer the govermment and the country away from the practice of terrorism. They have not succeeded in doing that. I could lay out in some detail how over the last year or so, year or so, the Iranians have been focusing their terrorism on the Gulf War and they --

Mr. McCurdy. But has this program moderated our response to terrorist involvement by the Iranians?

Mr. Casey. I don't believe it has. I believe we have moved on any terrorist activity which we saw that threatened our interest.

Mr. McCurdy. Thank you, Mr. Chairman.

The Chairman. Mr. Hyde.

Mr. Hyde. I have had my say, so I will not ask questions.

The Chairman. Mr. Beilenson.

Mr. Beilenson. Mr. Ireland, do you want my time?

Mr. Ireland. No, no.

Mr. Beilenson. I am concerned about my friend. Thank you, Mr. Chairman.

Most of the things I wanted to ask about have been asked, but let me ask a couple other things if I may.

First, I was out of the room for a couple minutes and I may have missed this, but with respect to weaponry provided to the Iranians, so far as we are directly involved and concerned it was something like 2008 TOWs.

Mr. Casey. Yes.

Mr. Beilenson. And spare parts for HAWK missiles?

Mr. Casey. That is right.

Mr. Beilenson. Has there been beyond that through Israel, for example, any major transfers of arms to Iran?

Mr. Casey. Well, we suspect there have been and we do know that the Israelis provided some weapons to them before we got involved, but that is in a very complicated way, some of that has been aborted, some of that has been adjusted, so that we take responsibility for the 2008 TOWs plus the HAWK missile parts.

Mr. Beilenson. Have the Israelis made any shipments that require notification or require permission from the U.S. before transferring to Iran, do you know?

Mr. Casey. There was one shipment that was made in the summer of 1985 which we heard about later, that for a time in order to keep this going we waived, or didn't take action on the failure of the Israelis to get the necessary permission and we have since I believe straightened that out.

Mr. Beilenson. Have we replenished the Israelis?

Mr. Casey. We have replenished the Israelis, yes, one shipment they made was replenished.

Mr. Beilenson. Just that one?

Mr. Casey. Yes.

Mr. Beilenson. Let me ask just one other question if I may. With respect to -- when you were responding to Mr. Wright and others with respect to the requirements of notification, you said something along the lines of when the project failed and we didn't care about it any more or succeeded, then we would report it.

What project, how would you define the project?

What was the project?

Mr. Casey. Well, the project was the objectives I defined in my testimony, they were several objectives, one was to open up a dialogue and relationship with the Iranian government. The other was to get them to stop practicing terrorism. Third was to get them to weigh in to help them get some or all of our hostages back. Four was to develop an understanding and relationship with them with respect to the Soviet threat on their northern border.

I would think if you wanted to know as I sit here now, what I think would have terminated the operational phase of it would be if we had an understanding on terrorism and they took -- we got our hostages back and we were talking to them. I think we would then feel we will be clearly free to disclose the whole matter.

Mr. Beilenson. I think you are suggesting the answer that I think is lying in there somewhere, and it is the hostages that is driving this thing.

Mr. Casey. Well --

Mr. Beilenson. I don't see us reaching out to other countries, or you simply haven't told us, who are geopolitically important who would be important for us to be talking about possible relations in the future. We are talking only to Iran and one suspects I think at times it is because they hold some hostages of --

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Mr. Casey. I don't think that is true at all. They don't hold hostages, but they have access to people who do. Certainly we have talked to Iran and Iraq as is important in the geopolitical future or similarly important. We are concerned about Afghanistan there.

Mr. Beilenson. Do we talk to [redacted]?

Mr. Casey. Well, we have talked to [redacted] certainly. Certainly we talk to [redacted] Not very successfully.

Mr. Beilenson. Are we trying to establish some kind of relationships with the moderate elements in [redacted] government?

Mr. Casey. We just haven't had that opportunity, no. We got people, we are trying, we are making probes there but we are not having great success. We are making probes as I said for five years with the Iranians and only recently have we had some access to the power center there. [redacted] I don't want to minimize the importance of the hostages in the equation, I insist it was only part of the story.

Mr. Beilenson. I don't think they should be in there.

Mr. Casey. Not really the more important part in my view.

Mr. Beilenson. Thank you, Mr. Chairman.

The Chairman. Mr. Livingston.

Mr. Livingston. Thank you, Mr. Chairman.

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Mr. Casey, I sort of share your concern and the President's that the underlying premise of this whole thing was extraordinarily important and I frankly think that he was right in taking action to do whatever was possible to wean the moderates if there are moderates in Iran away from the radical leadership, and back to the Western world.

I think I certainly share in the eloquent legal case that Mr. Hyde has made that shows that the President was within his rights legally under certain circumstances to withhold notification from the Congress. I think that those should be exceptional circumstances and what I would like to know from you is what factors in this particular situation were so compelling as to warrant the use of this particular loophole and not notify the Congress?

Mr. Casey. I think the factors in this case, in the particular case was the hostility of the government, the fact that we are dealing with people who were putting their lives at risk within their own society and within their own government. That the slightest whisper of this getting out would likely on the basis of the record cause those people who were stuck in there to be executed quickly, and we just didn't feel we should expose them to any unnecessary risk at all.

Mr. Hyde. Would the gentleman yield?

Mr. Livingston. Sure.

Mr. Hyde. The execution which didn't happen of Buckley but the announcement that he had been executed has to be put in here, too, a fear that the others would be executed summarily as a gesture of contempt for the great Satan of the West. I think that should be considered, too.

Mr. Casey. Right.

Mr. Hyde. Against this statement of his.

Mr. Livingston. I appreciate the gentleman's input, but that takes us back to the hostages and reinforces the possible linkage with the hostages.

Mr. Casey. No, no, let's not kid ourselves; there was a linkage to the hostages, we were doing everything we could to get these hostages out. We were reaching in all directions.

Mr. Livingston. Certainly, and the press was crucifying the President for not doing enough.

Mr. Casey. That is right.

Mr. Livingston. And I think that is fair concern. But in every instance in which the intelligence community becomes involved there is a possibility of loss of life. I am just not absolutely certain what there was about this particular incident that separates this from other such things as the proposal to sell arms to Jordan, or --

Mr. Casey. All you have to do is look at the record of what happened in Iran, and that wholesale slaughter.

And these people were perceived to be more trigger happy than the Jordanians and people like that.

Mr. Chairman, the Senate expects me at 11 o'clock. If you held us up we would have to be late over there.

The Chairman. If you leave, do the other witnesses stay?

Mr. Casey. I would be happy to have them stay.

Mr. Armacost. We are expected over there, too.

Mr. Casey. We can leave our reserve squad who come and answer many questions. I will come back any time you want.

The Chairman. We have a number of --

Mr. Casey. I am available this afternoon, Mr. Chairman.

Mr. Roe. Mr. Chairman, if I may, I think that the issue is of such magnitude and I have a couple of very important basic questions that I want to ask, so I would suggest perhaps we call Mr. Casey back this afternoon.

The Chairman. Can you come back this afternoon?

Mr. Casey. I will be happy to come back this afternoon.

The Chairman. Is 1:30 an appropriate time for everyone? I know it is not a convenient time but is it one everybody can work out? If we can take just a few minutes, we will ask you, Mr. Casey, to come back at 1:30.

Mr. Casey. Okay, I will be here.

The Chairman. If we can take just a few minutes we will give time to those Members who are not able to come back at that time.

Mr. Kastenmeier and Mr. Daniel have indicated that. So, Mr. Kastenmeier.

Mr. Kastenmeier. Thank you, Mr. Chairman.

Very briefly, I wish to associate my remarks with the analysis given by the Chairman and Mr. Wright and the reservations expressed by the Minority Leader as well and Mr. Livingston in this matter.

As Mr. Wright said, if the Act just cannot be -- one cannot confer unlimited discretion as to whether a President will comply or not withou indeed vitiating the Act, the Act becomes meaningless and indeed becomes a precedent for further ignoring the Act.

Mr. Chairman, I have just a couple of questions. One, while Mr. Casey, you indicated that the CIA became involved in November 1985 but as a member of the National Security Council, you were well aware of the situation from May 1985 on in terms of Mr. McFarlane reporting to you in the National Security Council, as President.

Mr. Casey. My recollection is I probably didn't -- McFarlane didn't tell me about this until some time in September of 1985.

Mr. Kastenmeier. He did not discuss it at the National Security Council level, on his meetings with the

Israelis as early as May?

Mr. Casey. I don't think so. I had not heard about it anyway until he told me privately.

Mr. Kastenmeier. My second question goes to if the President is exercising a constitutional privilege here and for whatever reasons he is not complying with the Act, why indeed was a Finding issued at all? Why have a Finding issued and put it in the safe?

Mr. Casey. Well, because we were not going to engage in these activities without Presidential authorization, the President approved it and authorized us but he was not prepared to --

Mr. Kastenmeier. Surely, you had already indicated, in November you were involved in providing aircraft planes without a Finding?

Mr. Casey. We did one flight. It wasn't clear that that required a Finding. But if we were going to have an ongoing activity and support whatever came along, we insisted on having a Finding.

Mr. Kastenmeier. My point is if he weren't going to comply with the Finding in terms of notifying the Congress or the leaders of the Congress --

Mr. Casey. We were going to comply with the Finding as soon as the circumstances, which have been laid down by the President, permitted.

Mr. Kastenmeier. But why would you not -- why would you insist on a Finding at all? Why not merely carry out Presidential orders even without a Finding?

Mr. Casey. Because we are not authorized to carry out activities beyond intelligence gathering without getting a Finding. We felt that these other activities were getting beyond intelligence collecting.

Mr. Kastenmeier. If the President can find a loophole for not notifying the Congress, you can probably find a loophole to go without a Finding.

Mr. Casey. We were not looking for a loophole, we were looking for full compliance with the law.

Mr. Kastenmeier. Thank you, Mr. Chairman.

The Chairman. We will conclude with Mr. Daniel, and then when we resume the Chair will recognize Mr. McEwen, followed by Mr. Roe, Mr. Brown, and Mr. Dwyer.

Mr. Daniel.

Mr. Daniel. Thank you, Mr. Chairman.

Since I am not a legal scholar, I think I can best serve the cause by keeping quiet on the legal question.

I think there is one thing, Mr. Chairman, that I would like to say, and that is while I agree with the objective, in light of 20th Century history commencing back with [redacted]. I believe in 1958 if I recall it right, and going on through Bay of Pigs, Vietnam, it seems to me this is

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an incredibly naive decision, incredibly naive decision.

I don't know how long it is going to take us to learn that you cannot do honorable business with dishonorable people.

I have one question, Dick, to what extent was the Defense Department involved in this?

Mr. Armitage. The Department of Defense made available under the provisions of the Economy Act, 2008 TOW missiles and 218 line item spare parts for HAWK missiles. We made them available to the CIA here. We were reimbursed for those or are in the process of being reimbursed for those items.

Mr. Daniel. Did you know the purpose for which they would be used?

Mr. Armitage. I had been informed of the purpose.

Mr. Daniel. You had been informed prior to the sale?

Mr. Armitage. We were informed, I was informed by the Secretary of Defense in January to effect the transfer to the CIA and the reason was in order to encourage strategic dialogue.

Mr. Daniel. I thank you, Mr. Chairman.

The Chairman. Thank you very much, gentlemen, we will see you at 1:30 p.m. The meeting stands recessed.

(Whereupon, at 11:00 a.m., the Committee was recessed, to reconvene at 1:30 p.m., the same day.)

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AFTERNOON SESSION

1:50 p.m.

The Chairman. The Committee will resume its sitting. On behalf of Congressman Daniel, I ask unanimous consent that his statement before the Committee this morning be prefaced with the phrase "while I agree with the objective, in light of..."

Without objection.

Mr. Hyde. Reserving the right. No.

The Chairman. The Chair recognizes the gentleman from New Jersey, Mr. Roe.

Mr. Roe. Thank you, Mr. Chairman.

Things that have happened at 10 o'clock in the morning are not quite the same as 1 o'clock in the afternoon, but I think it would be well just to get a couple points. You had made mention this morning about the concern, the ongoing concern with all of the situation that is there now as relates to the Iranian situation, and what I am curious about is that with all of this that has happened now and with the order from the President no more arms to go to Iran, how do you appraise this or is it too early to appraise the relationship now? How much more ongoing is it? Is it a dead issue pretty much for the moment?

Mr. Casey. Too early to tell, Mr. Roe. I hate to be pessimistic about it. It has been spread all over the media in Iran. The fellows who stuck their neck out a little, some of them will take to the hills. Others have been very bold and very adroit in kind of changing their gears and they put out a lot of this information to protect themselves.

How they can pull that off, I don't think we know or will know for some time.

We have gotten soundings from some that they want to continue in touch and they want to continue pursuing it perhaps at a delayed pace what they were seeking to do before. The one thing that was most encouraging is they had agreed that the last few days to give us a T-72. That T-72 we find is at the dock in Bandar Abbas and probably will stay there. But I think it is a longshot that this will not result in a big delay and perhaps a permanent setback in whatever was accomplished, whatever was going on.

Mr. Roe. Is it possible to believe that Khomeini didn't know about all the parts of it?

Mr. Casey. Khomeini?

Mr. Roe. Yes.

Mr. Casey. I believe, and again I am not sure about all of this, about any of this, but we were told that before they moved forward with this towards the last few weeks they made sure that everybody was in the act, each one of the people from each of the three factions who were supportive of the initiative and thought they should go forward and see how it worked.

So it is clear that those who had stuck their neck out and were concerned about it have kind of pulled it back and tried to cover their position, cover their "ass" shall we say?

Mr. Roe. It is hard to believe that Khomeini didn't know about it.

Mr. Casey. We think Khomeini did know about it.

Mr. Roe. Let me ask you just one more question, Mr. Chairman.

Mr. Casey. One of the guys we talked to was [redacted]

Mr. Roe. What about the role of the Israelis, did the idea emerge from this -- this idea emerge from the Israelis. Is it an Israeli policy that we adopted or --

Mr. Casey. No, no, I don't think it is a -- I don't think we adopted an Israeli policy. The Israelis were well in front of us in wanting to develop a relationship with the Iranians. In the Iran/Iraq situation they were not worried about the Iranians, they were really on the Iranians' side. We used to talk to them about our not wanting to provide arms to the Iranians. They were clearly providing some arms and they would tell us that they thought it was all right to do that to a limited degree because one of their purposes was to get to know the Iranian military better, develop relationships there because in a future Iran the military would probably be the powerful source.

. Then they came to us with this specific opportunity. They had talked to this Iranian ex-patriot, they were impressed by him, they felt he was well motivated and they felt it was a relationship we ought to carry on and participate in. And then they wanted to turn that over to us.

So in that sense this particular initiative was a --

Mr. Roe. Israeli initiative.

Mr. Casey. The Israelis passed it on to us, yes.

Mr. Roe. Where do we stand if the President now issued an order that we are not to provide any more weaponry or whatever or spare parts to Iran, is there any special containment going to be put on the Israelis? In other words, they did give them certain numbers of missiles without concurrence of the United States initially.

Mr. Casey. That is right, sure.

Mr. Roe. Is there any stronger constraints going to be placed to your knowledge on the Israelis on the materials we are sending to them?

Mr. Casey. Well, I doubt it. I doubt it. The Israelis are very jealous of their independence, of their sovereign status and although we help them they say we are the Israelis and we decide how to conduct our own policy and we conduct it in our own interests. That is how it has always been and what I take for the most part we have accepted.

Mr. Roe. Thank you, Mr. Chairman.

The Chairman. Mr. Brown.

Mr. Brown. Thank you, Mr. Chairman.

Mr. Casey, the CIA does not normally require a Finding in order to engage in the process of intelligence collection, establishing of assets within third countries, and other matters of that sort.

Mr. Casey. Yes.

Mr. Brown. That is correct?

Mr. Casey. Right, correct.

Mr. Brown. It is not unheard of for the State Department and/or the CIA to engage in efforts to determine what possible future government of an unstable country is going to be and to seek to obtain the emergence of a government which would be more friendly to the United States. That doesn't require a Finding, does it?

Mr. Casey. No.

Mr. Brown. Looking at the Finding, it seems to me that the only part of that objective set forth there or the provisions set forth that require a Finding is the part which relates to providing arms, equipment, and materiel. Is that your understanding?

Mr. Casey. Probably. Probably. There are other things there which influence things which are not argue -- arguably could be something beyond intelligence. I couldn't -- when you formulate a Finding you do it broad so you don't have to be pulling back on it.

Mr. Brown. If I were inclined to be cynical I would say that the purpose of the Finding was to protect your [redacted] from participating in something that was illegal.

Mr. Casey. Well, I would hope you wouldn't want to be that cynical.

Mr. Brown. Well, I would hope I wouldn't either but, you know, this isn't the first time that the Administration has tried to obfuscate a situation in various ways in order to achieve what they think is a worthwhile goal, and I don't think any of us here disagree with the goals that are set forth here.

We all want to release the hostages. We all want to establish communication with Iran and Iraq and any other countries where it would be helpful.

Mr. Casey. I think you put your finger on it, when you said the primary thing was the possible passing of arms, weapons. You know the other thing is that this was such -- this is such a big change, big alteration of policy that it isn't like an ordinary run of the mill situation where you try to change the course of a government.

Mr. Brown. I understand that, but it seems to me that the fundamental criticism gets back to a criticism of the Administration, the Administration's judgment in seeking to do something which runs directly contrary to existing law, and to the Administration's own Finding about providing weapons to terrorist countries and to do it in such a way that you will not get criticism by keeping it secret.

Mr. Casey. Well --

Mr. Brown. I am putting a political twist on this but I think there was a political purpose in this Finding and it has only been analyzed from a political standpoint.

Mr. Casey. Well, there is no political purpose that would justify the risk and the effort that was made except that of turning around the relationship with the country of Iran.

Mr. Brown. Well, I have a great deal of difficulty in seeing how we will turn around our relationships to Iran by something as simple as giving them $12 million worth of arms.

Mr. Casey. Well, there is more to it than that.

That was just part of it. We were trying to educate them, we were trying to offer them a cooperation in the future, hold out the prospect of helping them out, helping out their economy if they really shaped up and reformed.

Mr. Brown. There must have been somebody in the close circle of the President's advisers who pointed out to the President that the reasons that we undertook a policy of not bargaining with terrorists is that that encourages terrorism rather than inhibits it.

That you can have a situation where you will have segments of the government in Iran playing Mr. Good Guy and Mr. Bad Guy, and Mr. Good Guy will say we are moderates and we will help you if you cooperate with us, and Mr. Bad Guy will come around and order three more hostages to be taken for the three that were released.

Mr. Casey. We thought about that in London what happened when they grabbed additional American hostages.

Mr. Brown. Mr. Casey, did you personally advise the President as to the hazards of this course?

Mr. Casey. I think I did, yes. I think I told him this was a perilous thing.

Mr. Brown. Let me ask you one other question, and I apologize for being over on my time.

Mr. Casey. There are no easy things here.

Mr. Brown. What in your opinion is the political desirability of using the National Security Council staff to carry on operations which are more properly within the realm of other agencies of government?

Mr. Casey. I don't think that is a good idea. I don't think that is a good idea.

It happened. It happened first because the Administratio wanted to pursue something that the Congress that Created the CIA and Defense Department should not do and that is this Central American business. In this case it is hard for me to reconstruct how it got to be an NSC operation primarily except that it came to McFarlane, and he began to develop it, he used some of his people on it, and we got into it and we were -- we were merely asked to support it. It wasn't legally our operation.

Mr. Brown. I understand that.

Mr. Casey. It was their operation.

Mr. Brown. I don't find you culpable except to the degree you have the responsibility to advise the President for making a damn fool out of himself and your advice apparently wasn't very persuasive in this case.

Mr. Casey. Well, I didn't think he was making a damn fool of himself to tell you the truth.

Mr. Brown. I wouldn't expect you to say anything different, but sometody up there must have enough political smarts to know that when the President embarks upon a course which deliberately seeks to circumvent the express provisions of the law and the expressed directions of the Congress that he is going to be in for political trouble and when he uses the NSC to do that, it endangers the role of the NSC not only for this President, but for future presidents.

Mr. Casey. Well, I wouldn't argue with you on that. I think there are risks that were taken.

Mr. Brown. Thank you, Mr. Chairman.

The Chairman. Mr. Dwyer.

Mr. Dwyer. Thank you, Mr. Chairman.

You mentioned the NSC and the delivery of weapons. You mentioned Central America.

Mr. Casey. Yes.

Mr. Dwyer. Have they done that occasionally?

Mr. Casey. Well, I think -- the NSC has been guiding and active in the private provision of weapons to the contras down there. I don't know all the details. I have kept away from the details because I was barred from doing anything. I knew that others were doing it.

Mr. Dwyer. This morning in answer to a question I think from Mr. McCurdy, I think you replied that they apparently had been involved with delivery of weapons once previously than this occasion we are talking about today.

Another question that has been bothering me, this nameless Iranian ex-patriot, did you do an investigation on him as to who he was and where he came from and how trustworthy he was and all?

Mr. Casey. Yes, we did, we investigated him and we didn't think he was very trustworthy.

Mr. Dwyer. At the very beginning, Mr. Casey.

Mr. Casey. Right, at the beginning we thought he was a kind of dubious guy.

Mr. Dwyer. Was the President informed of that?

Mr. Casey. Yes. I think so.

Mr. Dwyer. And he still decided to go ahead?

Mr. Casey. Well, that is -- in this kind of thing you don't get any pure souls.

Mr. Dwyer. I didn't hear you.

Mr. Casey. In this kind of thing you don't get the purest souls to do what you want them to. You usually take those people that have a checkered career or checkered record.

Mr. Dwyer. It is just the matter of degree as to how much of a rascal he is?

Mr. Casey. Yes, I think that is fair.

It wasn't just this one ex-patriot. It was one who had people with him; and then towards the end we got an entirely different group that seemed to, what we believed, had closer and better contacts to the power structure in Tehran. So it wasn't like we were dealing with one guy who was carrying the ball for them, but there were people behind him and there was another faction that came along.

Mr. Dwyer. As I understand there was one ex-patriot brought to you originally by the Israelis.

Mr. Casey. Yes, that is right.

Mr. Dwyer. And he --

Mr. Casey. He had others with him. He had others with him.

Mr. Dwyer. Okay. But he was the one, he was the focal point supposedly that had the power to make the fix.

Mr. Casey. At the outset, yes, that is right.

Mr. Dwyer. Was he also an arms merchant?

Mr. Casey. Yes, he was an arms merchant.

Mr. Dwyer. Was he paid a commission?

Mr. Casey. Not by us.

Mr. Dwyer. No, no --

Mr. Casey. He was out there making money in the arms business, sure.

Mr. Dwyer. Was he making money off this arms transaction?

Mr. Casey. I would be hard to -- I think he had not but he could well, I am sure he had money figured in it for his operation.

Mr. Dwyer. Who was transferring the money that was figured in to him. How would that transfer take place?

Mr. Casey. He would get a commission or something.

Mr. Dwyer. From hom?

Mr. Casey. From whoever he was dealing with. The Iranians.

Mr. Dwyer. Iranians would send him a check for his commission?

Mr. Casey. I don't know. You know, the structure of these things doesn't -- it is done in different ways. We couldn't very well make him subject to renegotiation or something like that.

Mr. Dwyer. No, but you might have checked up in the meantime to find out if he really was paid and who paid the transfer and so on.

Mr. Casey. We didn't have much resources to do that in Iran. This guy was a worldwide arms wheeler-dealer, apparently had a lot of money. He had been successful in producing a lot of arms for Iran.

Mr. Dwyer. Have all the arms been paid for?

Mr. Casey. Yes -- well, we have not paid for them. They were all -- I believe they have all been paid for and delivered by the Iranians.

Mr. Dwyer. So that actually the total amount of arms that we delivered was $12 million.

Mr. Casey. Yes.

Mr. Dwyer. And that money has been received?

Mr. Casey. Well, we didn't receive -- didn't receive it to us, they paid for it --

Mr. Armitage. Would you want me to add.

Mr. Casey. I got more expert people here.

Mr. Armitage. Regarding the U.S. government repayment for those weapons which the Department of Defense provided the CIA under the Economy Act, there were four transfers, we have four letters of certification from the Central Intelligence Agency saying that the funds are available, the billing procedures are going through normal channels. Two have been completely paid. One is about to be totally completed and the fourth is just going through the procedures.

So we are in the process of being paid for all of them.

Mr. Brown. Will the gentleman yield to me?

Mr. Dwyer. Sure.

Mr. Brown. I am not sure who you are talking about. You are saying the Defense Department was paid by the CIA when the paperwork was completed. Who is paying the CIA then?

Mr. Childs. Iran. They put up the money. It is in [redacted] bank account sitting there; as we write checks to the Defense Department that is where it is coming from.

Mr. Dwyer. Okay, my question is, the amount of money still in [redacted] bank account, is it sufficient to pay for the amount of arms that were delivered?

Mr. Childs. Yes.

Mr. George. Yes.

Mr. Dwyer. Does it pay for the exact amount of arms delivered or was there a -- there is no deficiency.

Mr. Childs. There is a surplus of $350,000. Once we pay all the bills we will get from Mr. Armacost, there will be $350,000 uncommitted in that account.

Mr. Dwyer. From that point of view we were successful entrepreneurs?

Mr. Childs. Yes.

Mr. Dwyer. Just one more question if I might, Mr. Chairman.

The Chairman. Go ahead.

Mr. Dwyer. Did the President ever consult with you about advising Congress about this?

Mr. Casey. Yes, sure.

Mr. Dwyer. Your advice was not to -- did you advise him not to notify Congress or did you --

Mr. Casey. No.

Mr. Dwyer. Or did you disagree with what you thought was his position?

Mr. Casey. No, I didn't disagree. I went along with whatever he wanted to do. It was proposed -- the Finding was put up this way and I said over in the Senate, I don't think anybody objected to the matter.

Mr. Dwyer. Is that the case, people usually go along with what he wants to do?

Mr. Casey. Well, there is usually a consensus as to what we ought to do. This Finding, and the procedure, the process will be worked out by people in a different department at the working level, who put it together, and the input of the principles are put in on the way up and when you get there you have something that everybody concurred in.

Mr. Dwyer. During this exchange of ideas and opinions do you make a judgment as to whether American lives are at stake?

Mr. Casey. Oh, sure.

Mr. Dwyer. Were there American lives at stake in this particular situation?

Mr. Casey. Well, everybody believed there were. The hostages were clearly at stake, and the people working with us in Iran were taking a big risk.

Mr. Dwyer. But there were American lives at stake in the Grenada invasion and in the bombing of Libya. Yet Congress was notified. At least the eight people specified in the law.

Mr. Casey. Yes.

Mr. Roe. Will the gentleman yield?

Mr. Dwyer. Go ahead.

Mr. Roe. I was curious about one point, why in your judgment did the President take the point of view that there was no third countries involved when he made his speech the other night, then he issued a statement thereafter saying there may have been, but he wouldn't identify Israel. It is all over the front page of the Times and has been for two or three days, and the Post and so forth.

If Israel was involved and Israel initiated -- I am not coming down on Israel, I am just curious -- it is going to be out anyway.

Mr. Casey. We didn't want to be the one to put it out because we have an obligation of confidentiality with Israel. We don't want them to think we don't take that seriously. We had to maintain credibility with the countries we work with. If we are the ones that put it out and confirm it we let them down in that obligation of confidentiality.

Mr. Dwyer. One other question, Mr. Chairman.

The Chairman. Go right ahead.

Mr. Dwyer. At the time the judgment was made not notify Congress there were how many hostages held, total number of hostages?

Mr. Casey. Four, I think.

Mr. Dwyer. Four. So there were four American lives possibly at risk?

Mr. Casey. Yes.

Mr. Dwyer. How many lives were at risk in the Libya raid and the Grenada invasion?

Mr. Casey. A good many more.

Mr. Dwyer. Was the decision then a more political decision, a political decision rather than the risk of American lives, for whatever reasons?

Mr. Casey. No, I think you cannot compare those operations. This was supremely sensitive, the numbers of lives at risk in the first instance were not many, however the stakes were considered very high. The impact on our interest over the long run was high. And we wanted to protect the result of the operation as best we could.

Mr. Dwyer. The problem is that the higher the stakes get in that regard, the more ridiculous the whole operation gets.

Mr. Casey. The more ridiculous.

Mr. Dwyer. The more ridiculous the whole operation becomes.

Mr. Casey. I don't quite follow that.

Mr. Dwyer. That is the equation that is reached in my mind.

Mr. Casey. The higher the stakes it seems to me the more careful you got to be.

Mr. Dwyer. That is why this whole thing, the whole operation was probably ridiculous.

Thank you, Mr. Chairman.

The Chairman. We will proceed with the five-minute rule for a second round.

I am not clear about the total amount of arms transferred.

Mr. Casey. Twelve million dollars worth.

The Chairman. That is from the United States to Iran, and there were also a lot of transfers from Israel to Iran.

Mr. Casey. No --

The Chairman. My understanding of the law is that Israel cannot transfer those arms without U.S. approval. Is that correct?

Mr. Casey. I think it depends on what the arms are. I am not very clear. Rich, how do you feel about that?

Mr. Armitage. There are third country transfer provisions in the law irrespective of the amount of arms that any country has to have permission from the United States to make a transfer.

The Chairman. So the President had to approve any transfer of arms from Israel to Iran?

Mr. Armitage. No, Israel could have done it on their own and in which case she would be in violation of our third country transfer.

The Chairman. Well, in this instance did Israel advise the President or ask the President's permission, U.S. permission to transfer arms to Iran?

Mr. Casey. I believe there was one transfer that they did not ask. We --

The Chairman. How many transfers did they ask permission on?

Mr. Casey. I really haven't got that detail at my fingertips.

The Chairman. How much did Israel send to Iran?

Mr. Casey. Well, there were 2000 TOWs in this transaction, 2008. What Israel sent on top of that we cannot be sure.

The Chairman. The 2008 was the direct transfer from the United States to Iran.

Mr. Casey. That is right.

Mr. Armacost. No, there were --

Mr. Gries. There were no direct transfers from the United States.

The Chairman. I am sorry. Run through this for me, all the arms transfers that reached Iran pursuant to this initiative, both direct transfers from the United States, which may have gone through Israel, but nonetheless were basically direct, and transfers by the Israeli government to Iran in which the President approved.

Mr. George. Mr. Chairman, [redacted] from my staff can give you those exact figures.

[redacted] Okay.

The Chairman. What is the total value, $14 million for the direct, how much from Israel to Iran?

[redacted] Bear with me, sir, because I am not an expert on this. Let me try to walk you through it as best we know it.

In September of 1985 the Israelis shipped 508 TOW missiles to Iran.

The Chairman. Did the President approve that?

[redacted] That I don't know.

Mr. Casey. I don't think so.

[redacted] I don't think so.

The Chairman. Then they would be in violation of American law.

Mr. Casey. Yes.

The Chairman. What is the market value of the 508 TOW missiles?

[redacted] $1.8 million.

TOP SECRET [redacted]

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The Chairman. Okay.

[redacted] On 15 February 1986 the CIA picked up a thousand TOWs. Those TOWs were sent to Kelly Air Force Base and then they were then transshipped to Tel Aviv, not directly to IRAN, to Tel Aviv.

Mr. Livingston. Will the gentleman yield?

The Chairman. Yes.

Mr. Livingston. Are we talking about TOW missiles or TOW launchers or both?

Mr. Armitage. Just missiles, Congressman.

Mr. Livingston. Thank you.

[redacted] From Tel Aviv into Tehran.

The Chairman. That is not equipment that previously had been transferred to Israel. That was going from --

Mr. Allen. This is fresh equipment.

The Chairman. What is the value?

Mr. George. What is the value, Dan?

Mr. Childs. $3.5 million.

The Chairman. Next?

[redacted] On 23 May, 1986, the same procedures were used, in other words we picked up 508 TOW missiles, brought them to Kelly, and they were transshipped to Tel Aviv but they stopped there. This was reimbursement for missiles that had been -- that the Israelis had shipped in September.

UNCLASSIFIED

TOP SECRET [redacted]

Then in November 1986 we again picked up 500 TOW missiles which were shipped off to Tel Aviv and then from Tel Aviv they were carried on into Iran. So that is the total of 2008 TOW missiles.

The Chairman. And that is all the U.S. provided directly?

Mr. George. No, that is the TOWs only, Mr. Chairman, not the HAWK spare parts.

The Chairman. Where do they come in? I want the whole thing.

[redacted] I think it was on 25 May -- do you want to cover?

Mr. Allen. On 25 May a certain amount of the HAWK -- of the HAWK spare parts were shipped into Tehran at the same time that the American delegation came. Then in July the additional HAWK spare parts were taken to Tehran.

The Chairman. What is the value of those?

Mr. Childs. $4.3 million.

The Chairman. Now, what about the amount of arms sent from Israel to Iran?

Mr. Childs. We don't have that.

Mr. George. We don't have that, Mr. Chairman.

The Chairman. Other than these?

[redacted] Other than the September 1985 shipment of TOWs we don't know.

The Chairman. Well, look, there have been reports in the press that I have seen, $40, $60 million has been sent in by Israel. Under the law Israel could not ship those without the approval of the President. Am I right about that?

Mr. Armitage. That is right.

The Chairman. How many times did the President give his approval for Israel to ship arms into Iran?

Mr. Allen. None to our knowledge, sir.

The Chairman. The President did not approve any arms shipments by Israel directly into Iran?

Mr. Allen. We don't know.

Mr. George. We don't know.

Mr. Allen. We don't know that and --

Mr. George. What do you mean we don't know it?

Mr. Allen. We don't know.

The Chairman. You mean the President hasn't told you?

Mr. Allen. We have no knowledge of that as part of this project whatsoever.

Mr. George. We received the missiles, we transported them to Israel and away they go. We don't know whether or what transpires. We bring them to Kelly Air Force Base I should say.

Mr. Casey. I don't have the details on this at my command, Mr. Chairman, but there was a shipment, the

Israelis made a shipment in violation, a shipment which violated our law and I think for a time we didn't do anything about it and later on we required that the Israelis correct that. Just how that was done I don't have that at my fingertips.

The Chairman. Have we asked the Israelis how much they have shipped to Iran?

Mr. Casey. I don't think so. Do you know, Mike?

Mr. Armacost. In our contacts, Mr. Chairman, we have normally been approaching them as we have approached many countries on Operation Staunch, requesting that no arms be shipped and the general answer we have in our diplomatic engagement has been that as a government they are not shipping any arms, although there is occasionally a caveat they are not entirely sure that some private activity might not be taking place.

Mr. Roe. Will the Chairman yield?

The Chairman. I yield.

Mr. Roe. I am curious on the point, how do we monitor, how does the United States monitor exactly what the Chairman is saying, the transshipment, when we made an agreement with a country that they cannot go to a third country? How do we monitor that, or do we monitor that, and not only in Israel. And how do we monitor the third country shipment?

Mr. Armitage. Usually with the security people, and they don't, they don't go out and do a hands-on inspection. Generally when equipment is used in an offensive way or transferred to third countries, we find out about it from the country to which it is transferred or from whoever is on the receiving end of offensive use of the weapon. That is what triggers our consultations with the Congress.

Mr. Armacost. In the case of the Operation Staunch directed against Iran, [redacted] when we find a shipment is going in we have made representations to the country concerned.

The Chairman. Are you aware of any shipments by Israel to Iran of American military equipment?

Mr. Armacost. I think I --

The Chairman. Other than the ones stated here?

Mr. Armacost. I have heard about two recently, and I was otherwise unaware, the September and November shipments. Other than that, it has been our supposition there is quite a lot going on but I am not aware of any specific shipments and we have not been able to pin that down.

The Chairman. Why do you make that supposition?

Mr. Armacost. Well, there just is a lot of circumstantial evidence, I cannot point to anything in particular, Mr. Chairman, but --

TOP SECRET [redacted]
UNCLASSIFIED

The Chairman. Look, the Israelis are among our best friends in the world. Don't we sit down with the Israelis and say we have got some American equipment here, we have heard rumors you are sending it in. Are you sending equipment into Iran? Is it American equipment?

Mr. Armacost. We have had conversations of that sort, and as I --

The Chairman. And the Israelis deny it.

Mr. Armacost. There are no shipments authorized by the government.

The Chairman. So to your knowledge then there are no shipments by the Israelis other than the ones you have cited here that originated I guess in the United States, there are no shipments by Israel into Iran and the President has not approved any transfer of arms from Israel into Iran during the course of this initiative. Is that an accurate statement?

Mr. Casey. As I said before, Mr. Chairman, there was a transfer that happened without our knowledge. For some months we didn't do anything about it when we learned about it and then we ultimately required the Israelis to reverse it. I can give you the specific detail of it though I don't have them at my fingertips. I can get that to you.

(The information referred to follows:)

COMMITTEE INSERT

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TOP SECRET [redacted]

The Chairman. I would like you to review this little exchange we have had and see if you want to alter it in any way. What stands on the record is very contrary to press reporting with regard to what Israel has done.

Mr. Casey. There is a lot of speculation about what Israel has done and a lot of things we don't know.

The Chairman. And I am not assuming the speculation is correct.

Mr. Casey. There is a lot of confusion between private shipments from Israel and governmental shipments.

The Chairman. Is it accurate that no spare parts have been provided for the F-4 and the F-14?

Mr. Casey. As far as I know that is accurate.

The Chairman. Okay. Mr. Hyde.

Mr. Hyde. I think it is safe to say that Israel's private sector doesn't ship arms to Iran without the public sector knowing about it and in a little country like that with an intelligence agency as allegedly sophisticated and effective, if arms are getting to Iran and the Government of Israel says we don't know about it, I would be concerned about that, about the validity of that statement.

Now, we have heard a wink and a shrug used about Mr. Hasenfus and the National Security Council's activities in Nicaragua, in Central America by those who oppose them. I am surely not one.

But I wonder if this stuff goes to Iran with a wink and a shrug from Israel and we just kind of avert our eyes from it.

Israel has a very special relationship and it may be one of those things we don't want to know about.

I am just saying that I am not satisfied that we don't know what Israel is doing and Israel doesn't know and we take their word for it because I think that is naive.

Mr. Dwyer referred to the operation as ridiculous or something because there were only four, I count five American lives at risk, not counting Buckley. We have Wier, Jencko, Jacobsen and then Anderson and Sutherland still there. The other three hostages apparently are in the clutches of the Libyans [redacted] but there are other reasons than numerical American lives to keep a project very, very secret, and that is the operation itself.

There may well be lives at stake inside Iran who if they were revealed to be dealing with the "Great Satan of the West", the whole operation would be blown and that may be of such importance as to justify very tight security. I remember no American lives were lost on the Libyan adventure but I sure will never forget to my dying days Secretary Shultz sitting there pleading with us how sensitive it was [redacted]

[redacted] and by God the next day there it was in Bob Woodward's column, the whole thing was blown and God knows how many lives might well be involved before Mr. Qadhafi ever gets out of there.

So I am just saying that there are reasons for security other than the numbers of American lives, there is the very nature of the operation itself which may very well be quite important.

All of that aside now, Mr. Casey, I have heard a denial that this arms transaction was a government-to-government transaction, that we are dealing with a faction inside Iran that is antiterrorist and that whatever we do for them is not in furtherence of terrorism and it is those inside Iran who are the radicals.

Yet we have heard today that a $12 million payment from the treasury of Iran, from the Government of Iran was made into a sterile bank account [redacted] Now either we were dealing with some pretty heavy guys who had access to the treasury of Iran, or the Government of Iran was involved in this, and I just would like to know from whence came $12 million out of the coffers of Iran that wasn't an Ayatollah operation.

Mr. Casey. I cannot answer that offhand. I cannot say that -- I think it probably did come from the government and there were wheels within wheels there, but it may be that some of that was private Iranian money. They got a lot of loose money there. These guys buy and sell things in the arms market all the time. I really don't have that at my fingertips.

Mr. Hyde. I would like to think we were dealing with a faction, a group of reformists, a reasonable group or even a major group but not the Government of Iran. Because if we were dealing with the government and we are saying the government is a terrorist government, I have a lot of problems justifying this whole adventure in those terms.

Mr. Roe. Will the gentleman yield?

Mr. Hyde. Yes.

Mr. Roe. I believe, Mr. Casey, if I may have mentioned before. That was the question I asked. How could you possibly be bringing in spare parts with all the expose' in the Times talking about using these materials to strengthen the relationship between Iran and Iraq, in other words strengthening Iran against Iraq, how could the government not know about that? How could some private party be providing replacement parts and missiles and pieces that were essential to them and the government not know about it?

Mr. Hyde. The way I read it from the outside, and I do mean the outside, is that the government, namely the

Ayatollah and his advisers, knew about this and were being benign about it. If that is so, who is using whom? I rather feel we were being used  But these are judgment calls from the outside. But that is what bothers a lot of and that sure bothers me.

Thank you.

The Chairman. Mr. Beilenson.

Mr. Beilenson. Only just this one question which may have been asked, I am not sure if it was or not. The Israelis as a government tell us that they don't know about anything or that they are behaving and so on. Do you all know anything about private Israeli arms transactions to Iran? Do you know any of that yourselves?

Mr. Casey. Yes, I think we know about some of them. I don't think we know about them all.

Mr. Beilenson. What do you know?

Mr. Casey. I think we know there are transactions, there are some Israeli companies that do sell to Iran on a private basis and they are bought by the Iranian government.

Mr. Beilenson. Do we have any --

Mr. Casey. They are dealing with those people directly as well as dealing with stuff that we give them.

Mr. Beilenson. Do we know what kind of stuff they sell them and what quantities we are talking about over the past two or three or four years?

Mr. Casey. I don't think we know. We don't have a precise fix on it.

Mr. Beilenson. Iran is getting a decent amount of supplies from [redacted] and I don't know where else.

Mr. Casey. [redacted]/North Korea are the big ones. But I think the Israelis probably have a good slice of that business, the [redacted] have a billion dollars of it, the North Koreans have close to that If the Israelis have $40 million or $50 million, that is a lot for them.

Mr. Beilenson. Wouldn't one suppose that if the Israelis were trying hard, that is the government, that they could help us stop the shipment of privately-acquired or stuff bring privately sold to Iran by Israelis?

Mr. Casey. They don't believe in doing that

Mr. Beilenson. If there were an independent arms field in the United States, I think we could stop it from selling to Iran.

Mr. Hyde. Would the gentleman yield? They want the war to go on.

Mr. Beilenson. I understand that. I am just pursuing this matter so we can get a feel for how much there is going on. So there is some. We don't know an awful lot about it.

Mr. Casey. I could tell you what we know. It would be very general and it would be an estimate.

I can tell you how much arms trade we think occurs. I don't have it at my fingertips.

Mr. Beilenson. Is that U.S. stuff originally supplied by the U.S. or stuff these people have acquired?

Mr. Casey. I am talking about stuff manufactured in Israel and shipped out.

Mr. Beilenson. In Israel.

Mr. Casey. And shipped out directly.

Mr. Beilenson. Thank you.

The Chairman. Mr. Livingston.

Mr. Livingston. On the same theme, there was just about three months ago, maybe a little more now, that a former Israeli general was involved in a scheme to ship arms to Iran with a bunch of American nationals and bunch of folks who were actually indicted, charged right here in the country.

Mr. Casey. Yes.

Mr. Livingston. What relationship did that scheme have to what we are talking about today?

Mr. Casey. It was a separate group of people, although some of these people might have been involved in that also. There are a great many arms smuggling groups operating on Iran and among Iranians. They are all over the place.

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Mr. Livingston. Mr. Casey, doesn't it appear hypocritical for us to criminally charge people for doing basically the same thing that our United States government is doing covertly?

Mr. Casey. Well, I don't think so. It may appear that way, but I think that happens. We have laws, we expect private people to observe them sometimes the government has to --

Mr. Livingston. Perhaps I am putting the wrong emphasis. Could you differentiate for me what they did and what we are doing as a government, what we were doing officially?

Mr. Casey. I suppose I could. I wouldn't care to attempt it now. We probably have reasons of State to do it. They have reasons of greed and profit to do it.

Mr. Livingston. Thank you.

The Chairman. Mr. Roe.

Mr. Casey. I don't like to make those distinctions but they can be made.

The Chairman. Mr. Roe.

Mr. Roe. Following the Chairman's question, there is one hole in that discussion that I didn't think was filled. The Israelis purportedly transferred 508 missiles, TOW missiles to the Iranians themselves. You recall you mentioned that?

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Mr. Casey. Yes.

Mr. Roe. Initially, without any other approval or whatever.

Mr. Casey. Yes.

Mr. Roe. They were slapped on the wrist and so forth and --

Mr. Casey. No, no, let me see.

Mr. George. That is correct.

Mr. Casey. That was September, right?

Mr. Allen. September 14.

Mr. Roe. Then the 508 missiles were replaced to the Israelis.

Mr. Allen. Yes.

Mr. Roe. Where did the money for that come from?

Mr. Childs. Out of Iran.

Mr. Roe. That came out of the Iranian money?

Mr. Childs. That is right.

Mr. Roe. Other reports indicate that when McFarlane went to visit in Iran, that it was a bit of a, I don't want to use debacle, it did not go the way they thought, because they did not meet with high level people. They did not meet with the high level people of Iran.

Mr. Casey. They had hoped to, yes.

Mr. Roe. They had hoped to which was the understanding. Therefore McFarlane was negotiating quote unquote with lower echelon people. I believe --

Mr. Casey. Yes.

Mr. Roe. Early in your comments you said they were meeting with top people of Iran but according to what we hear they were not meeting with top people of Iran; they were meeting with lower echelon people.

Mr. Allen. They were not the top three officials in Iran, but they were senior officials, both senior --

Mr. Casey. What I said is we never met with people at that level before.

Mr Roe. Then we talked earlier and I will furnish on this, we talked about where does it all come down to, the whole mess we are in is perception versus facts, and it seems to me that what the press is centering on is did we enter into the whole Iranian escapade, was that the trigger to get the hostages out where people were involved or are there really two different missions here?

For example, when the Israelis initiated the contact and said, hey, we got this contact, some guy from Iran, let's get together with this guy, looks like it might be a good thing, we ought to pursue that. That was reviewed according to what you and others have stated. It was reviewed, even though the guy was a rascal or everybody says so, let's deal with him. He had other people with him

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and so forth.

Do you know whether or not when the Israelis made the initial contact was it made on opening up different relationships and trying to cure some of our problems with Iran and move into the new era with Iran? Or was also the hostage issue part of that relationship? Was it if we deal with Iran we can get our hostages out or are we mixing pickles here? Are they separate issues? Was one a tail on a kite?

Mr. Casey. It is hard to be precise on that

Mr. Roe. If the gentleman will yield, the public perception is that the President of the United States set a policy and said we will not deal with countries that are going to be dealing in terrorism, we will not provide any arms to them, blah, blah, blah, blah, blah, we won't deal with them. We want to figure a way to get our hostages out, and everybody is coming down and saying here is a great opportunity for rapprochement with Iran and the press has mixed this up that here we are giving arms and selling arms to Iran because we wanted to free the hostages, therefore we went against our whole national policy.

I think basically that is where the public relations comes into focus. The question is when this initially started -- I think it is a very important point - when the Israelis came to the States and said we got something

UNCLASSIFIED [redacted]

that looks like it might open up here, did they lock the hostage issue to that? Was it just the Iranian issue? Did the hostage-Iranian issue emerge as time went on? That is important from a congressional point of view.

Mr. Casey. It is my understanding, and I believe that the initial thrust was political.

Mr. Roe. For Iran?

Mr. Casey. For Iran, our relationship with Iran.

Mr. Roe. Okay.

Mr. Casey. McFarlane went there and I think he quite properly said, look, we cannot develop a political relationship with you guys if you are going to go around practicing terrorism and unless you exert yourself to get the people over whom you have some influence to return our hostages.

Then the hostage thing became part of it. It became a condition precedent to the broader political objective.

Mr. Roe. So in effect are we not mixing two issues here?

Mr. Casey. Sure. It is inherently that way. It is inherently that way. We certainly want to achieve both objectives. I don't know if we really care which comes first. I think the hostage thing has to come first because it is --

Mr. Roe. I think it is important which comes first, because the -- there was one thing we said earlier --

The Chairman. Mr. Brown.

Mr. Brown. Mr. Armitage, you indicated earlier that you had no -- the Department of Defense had no direct knowledge of this process, that you were merely fulfilling a request from the CIA.

Mr. Armitage. In December of 1985 I had been informed by the Secretary, he had his first discussions on this subject. He had subsequent discussions with the President during January, late January he instructed me and his military assistant to effect the transfers under the Economy Act provision to the CIA.

Mr. Brown. Did the Department of Defense to your knowledge participate in the drafting of the Finding?

Mr. Armitage. To my knowledge it did not participate.

Mr. Brown. After the Finding was promulgated by the President, was it conveyed to the Department of Defense?

Mr. Armitage. To my knowledge it was only conveyed verbally to the Department of Defense.

Mr. Brown. In the absence of that Finding, would the Department of Defense have provided the weapons requested to the CIA?

Mr. Armitage. The Economy Act provision as I understand it would make it possible for the Department to provide weapons tothe CIA assuming that they are not available in a more convenient or quicker or cheaper way somewhere else so we could have done it. I don't know of any case where we have done this without some special Finding or some special activity. Is that basically your statement?

Mr. Allen. Yes.

Mr. George. Yes.

Mr. Brown. In other words, you make an effort in the Department of Defense to assure yourself that the CIA is requesting these for a legal and authorized purpose?

Mr. Armitage. Yes, and in this case the President has instructed the Secretary that this was his desire and the Secretary then told me and we did this.

Mr. Brown. Mr. Armacost, what was the role of the Department of State in the drafting of this Finding?

Mr. Armacost. We had no role in it.

Mr. Brown. You had no role at all?

Mr. Armacost. None that I am aware of.

Mr. Brown. And how was the Department of State informed with regard to the content of the Finding? When and how?

Mr. Armacost. I would have to make a check, but I don't believe the Secretary knew the exact contents of the Finding until the last several weeks.

Mr. Brown. Until the last several weeks?

Mr. Armacost. Right. He participated in the discussions that preceded the drafting of the Finding.

I believe the meeting was the 7th of January.

Mr. Casey. Yes.

Mr. Armacost. As far as I am aware, he never saw the Finding. I think the legal adviser and I were the first Department members to see it, and that was Tuesday of this week.

Mr. Brown. The discussions I presume took place with the staff of the National Security Council, Mr. Poindexter and --

Mr. Armacost. I am sorry, which discussions?

Mr. Brown. Discussion with respect to the Findings? You indicated that the Secretary had some discussions with --

Mr. Armacost. There was an NSPG meeting on the 7th of January which involved the principals of the Department, that is the Secretary of State along with Director Casey, I believe, the Secretary of Defense, the National Security Adviser, the President, and I am not just sure who else was present but those, the statutory members of the NSPG, I believe.

Mr. Brown. What is NSPG, what does it mean?

Mr. Armacost. National Security Planning Group.

Mr. Brown. Is that a subgroup of the National Security Council?

Mr. Casey. Yes.

Mr. Armitage. Yes.

Mr. Armacost. I ought to know that. Was it NSC or NSPG?

Mr. Casey. I think it was NSPG but I am not sure. I think it was NSPG.

Mr. Brown. I think the Secretary indicated in some of his public comments that he had been consumed sporadically with regard to the conduct of this operation. Is that your understanding of this situation?

Mr. Armacost. Yes, that is correct.

Mr. Brown. But that the role was not a particularly active one?

Mr. Armacost. His role was active insofar as when information came to his attention regarding the issue he expressed his views in a very forceful way in these meetings that were held.

Mr. Brown. Are you free to reveal what those views were, do they differ from what he said publicly?

Mr. Armacost. Well, I think all I could say, Congressman Brown, that as has become evident I think in public, as the principal architect of the counterterrorism policy of which one principal tenet is the effort to discourage deals where hostages are involved and as the leader of a department which has been very active in seeking to frustrate arms sales to Iran in this Operation Staunch you can readily imagine the position he took on this.

Mr. Casey. I would say that the CIA has probably the most effective counterterrorism capability in this government and I think most of the people in the CIA felt this initiative was still worth doing, so it doesn't quite follow that clearly.

Mr. Brown. You mean there were differences between the CIA and the Department of State?

Mr. Casey. I guess so. If Secretary Armacost is right about Secretary Shultz' position. I know he did express his opposition to the concept at the outset. Then the President decided to go ahead and I thought we were all supporting the President's decision and I know that we were supporting it and also we were fighting terrorism as well as we could.

Mr. Brown. Thank you, Mr. Chairman.

The Chairman. Mr. Dwyer.

Mr. Dwyer. Thank you, Mr. Chairman.

Earlier today I think I heard someone say that -- I think I heard someone say that terrorism is apt to increase because of this whole episode. Did I hear that?

Mr. Casey. I think it is too early to tell. I haven't seen any tremendous increase in terrorism in the last couple weeks. We thought that the terrorism had declined somewhat largely as a result of the action taken against the Libyans and then the action the British took in the case of the Syrians and the Syrians feel they want to cool it anyway, and the Iranians have for the last year or so been active in terrorism focused largely on their Gulf war in their attempt to intimidate the nations in that area, and have not been spreading their wings all over the world as they had been previously.

So there has been a little evolution in the focus but terrorism is still a big problem and a matter of great concern.

Mr. Dwyer. Has there been any discussion of what can be anticipated, particularly if the terrorists think we have finally given in and started to pay ransom which apparently was not our policy heretofore?

Mr. Casey. I would doubt very much that they think we have given in and are about to pay ransom. I would think that terrorists, as this is broadcast around the world, would get smart to that, rather than to just think that this was a particular thing for a particular purpose and maybe it didn't work, and maybe it is over.

It is probably over. I think they will adapt to that.

Mr. Dwyer. One more point I would like to have cleared up in my mind, the Israelis transferred some equipment to the Iranians. We apparently were chagrined because they transferred that equipment and the Israelis got the equipment back. Is that what I heard?

[redacted] That is correct.

Mr. Allen. That is right.

Mr. Dwyer. There must be an excellent relationship between the Israelis and the Iranians to deliver the equipment and say, hey, look, we made a mistake; you got to give us the equipment back.

Is that really what happened?

Mr. Casey. I don't know if they actually got the equipment back.

[redacted] We got it back.

Mr. Allen. The Israelis obtained back the equipment, 17 of them.

Mr. Casey. There is a good relationship between the Iranians and Israelis.

Mr. Dwyer. But how was it that -- how did they get it back? Does anybody know? I mean who went and got it?

Mr. Casey. They probably shipped it back. I don't know.

Mr. Allen. I think it was brought back in the February-March time frame by one of the flights that went in with the TOW missiles. So that they were retrieved.

Mr. Dwyer. Is there any possibility of our asking them to ask to get back all of the equipment?

Mr. Casey. They paid for it.

Mr. Dwyer. Well, we will give them the money back.

Mr. Casey. That is above my pay grade. I don't know whether we want to do that or not.

Mr. Hyde. Do you want to redeliver the hostages to them, too?

Mr. Dwyer. No, no.

Mr. Hyde. A deal's a deal.

The Chairman. Mr. Director, was it true that when you folks planned this operation that you believed you could keep it secret?

Mr. Casey. Well, we did keep it secret for almost a year. We are never sure we can keep a secret. Sometimes it is amazing what we keep secret.

Mr. Livingston. Tell us.

Mr. Casey. Well --

Mr. Brown. You were not hoping to keep it a secret just after an election, were you?

Mr. Casey. We knew it would come out, we hoped to accomplish some things before it did. We accomplished some things. We hope to accomplish more.

[redacted]

[redacted]

The Chairman. Can you tell us anything about what you plan to do in the future? What kinds of contacts, who will have responsibility for those contacts, do you have it or does Mr. McFarlane have it or Mr. Poindexter or what?

. Mr. Casey. Well, I think the State Department would have a primary responsibility for contacts with Iran. I think we will contribute whatever we can do and depending on how those contacts develop maybe there will be a defense relationship, although I think that is quite a ways down the line. I think we can say that the Iranians have indicated a desire to have some diplomatic relationships, an interest in it.

The Chairman. To follow up on the point Mr. Hyde raised, we furnished these arms to the Iranians and my assumption is that those arms strengthened the war-fighting capability of Iran against Iraq. Some of you, or maybe it was Admiral Poindexter this morning, said the arms were furnished to moderate elements, but the moderate element is part of the Iranian government and is my assumption wrong that these arms were used to strengthen the Iranian capability against Iraq?

Mr. Casey. I think we have to assume that, but I think we believe that the weapons and arms provided have not significantly increased their capabilities. They are kind of tiny in the total picture of the confrontation between those two forces.

The Chairman. What happens with this policy, with this initiative to our policy on terrorism?

Mr. Casey. I don't think it is a great drag on our policy on terrorism.

The Chairman. Let me just run through some of the statements. The President has said in June of 1985, the U.S. gives terrorists no rewards, no guarantees, we make no concessions, we make no deals.

Mr. Casey. Yes.

The Chairman. Now, we did make a deal with a country that we have identified as --

Mr. Casey. We made no deal, no direct deal with respect to terrorists.

The Chairman. Well, we made a deal with a country that sponsors terrorism.

Mr. Casey. Yes.

The Chairman. We said we would not negotiate with terrorists, we did negotiate with a country that has been identified as a sponsor of terrorism.

[redacted]

[redacted]

The Chairman. So where is our policy now? It looks to me like we are altering our policy and the policy no longer is that we don't make concessions or deals. We do make deals with terrorist countries. We have done it. Right now we have done it.

Mr. Hyde. Will the gentleman yield?

The Chairman. Let me see what the policy is. I yield.

Mr. Hyde. Let me try to put a spin on this because I am trying to understand it, too, and the money, the arms went in the pot, the money came out of the pot, but in acquiring the arms for Iran the faction, the moderate faction enhanced its prestige and its strength and its authority within this kaleidoscope called the Government of Iran.

Is that a reasonable -- is that reasonable?

Mr. Casey. We hoped it happened that way. We cannot be sure. We hoped it happened that way.

Mr. Hyde. Was that the intention?

Mr. Casey. I would say it was part of the intention.

Mr. Hyde. Okay.

The Chairman. One of the newspaper columnists said the other day in the 1930s you didn't make a deal with part of the German Nazi government, the moderate element of the German Nazi government.

Mr. Casey. And a lot of people think that was a big mistake. A lot of people think a lot of lives would have been saved and we would have saved a lot of time loss if we had done that. And we turned it down.

The Chairman. I have no problem with the proposition that you have to negotiate with Iran, personally. I don't have a problem with that. What I am trying to understand is what our policy is now. You see, your formulation of this keeps changing. When the President spoke the other day he spoke in terms of not capitulating. We have no policy of capitulation. That is a very different formulation of the policy than to say you don't negotiate with, or a formulation of a policy where you make no concessions.

Mr. Casey. Yes.

The Chairman. It seems to me that our formulation of our policy towards terrorism is going through some change in light of these circumstances.

Mr. Casey. I don't think it has been -- I don't think it is a big change. We are opposed to terrorism, we will do everything we can to counter it. We will not pay people who seize terrorists, hostages, we are not paying them for the hostages. We will try to use whatever influence we have on nations that may have influence with those captors, the people who have hostages, to persuade them to release them. [redacted]

To my mind that is not sharply different, although I must say the Iranians are less attractive people, that is not vastly different than saying the Iranians, look, we will give you some concessions, considerations, if you will exercise your influence on the people who hold the captives and persuade them to let those captives go.

And they did that with respect, we believe, to three captives. That happened.

So it wasn't a foolish idea. It might not have been a wise idea, maybe it didn't work well.

The Chairman. I understand. I just think you are going to have a lot of trouble explaining your policy on terrorism now. I just recently returned from a trip through the Middle East and --

Mr. Casey. You don't have to be a great prophet to figure that at this point.

The Chairman. You got a tough burden of persuasion ahead of you on this problem of terrorism.

Mr. Casey. This is a difficult job at best.

Mr. Hyde. Will the gentleman yield?

The Chairman. Yes.

Mr. Hyde. I think our law says we use the stick against terrorist government but somebody decided ad hoc to use a carrot without bothering to change the law. Now the carrot has not worked all that well, but we have been proclaiming the stick as our policy in the law and frankly, we have carrot on our face.

The Chairman. Well, I got many, many more questions. You folks have had a long day. Any other questions?

Mr. Armacost, you are coming before the Foreign Affairs Committee on Monday.

Mr. Armacost. I am?

The Chairman. I will have two more days to think up questions for you.

Any other questions?

Thank you very much, gentlemen, for your appearance.

Mr. Casey. Thank you.

(Whereupon, at 3:05 p.m., the Committee was adjourned.)

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Committee Hearings

of the

U.S. HOUSE OF REPRESENTATIVES

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Select Committee to Investigate
Covert Arms Transactions with
Iran

(CIA CHIEF)

Deposition of [redacted]

Monday, April 13, 1987

U.S. House of Representatives

(CIA CHIEF)

The deposition of [redacted] was convened, pursuant to notice, at 2:40 p.m., Monday, April 13, 1987, in Room H-128, The United States Capitol.

Present were:

Thomas R. Smeeton, Minority Counsel, Select Committee to Investigate Covert Arms Transactions with Iran, U.S. House of Representatives.

Timothy Woodcock, Associate Counsel, Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition, U.S. Senate.

[redacted] Assistant General Counsel, Office of General Counsel, Central Intelligence Agency.

[redacted] Legislative Liaison, Central Intelligence Agency.

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Whereupon, (CIA CHIEF)

[redacted]

was called as a witness, and after being duly sworn, testified as follows:

MR. WOODCOCK: [redacted] I am Tim Woodcock, Associate Counsel with the Senate Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition. This deposition is being taken pursuant to the request of the Senate Select Committee. Present is a member of the House Select Committee covering the same subject matter and no doubt the House will be making use of the information that you will be imparting in the course of this deposition.

This deposition, of course, is being taken pursuant to an official inquiry of the Senate as well as an official inquiry of the House.

Let me start off -- thank you. The House representative is giving me a card noting he is Thomas R. Smeeton. I believe the reporter has that information already.

[redacted] if we may, let me begin first by noting for the record that I provided you and the legal representative from the CIA with a copy of the Senate rules and Senate resolution that creates our committee. I very much appreciate your willingness to come here on short notice for this deposition; and we understand that in so doing, you are accommodating us, and in a certain sense, we are accommodating

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you in preventing you from having to return for a deposition later this month.

EXAMINATION ON BEHALF OF THE SENATE SELECT COMMITTEE

BY MR. WOODCOCK:

Q Let me ask you, sir, before we get into the substance of this to just generally outline your career with the CIA.

A I came on board in [redacted]

Since then, I have served in various capacities in Washington. [redacted]

Q You are currently CIA chief [redacted]?

A I am currently chief [redacted]

Q [redacted]

A

Q

A

Q , were you acting in your capacity as chief [redacted] in late November of 1985?

A Yes.

Q And could you describe for us information that

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you received in that period of time relating to a -- from your headquarters relating to an NSC -- that is, National Security Council -- endeavor?

A At 0300 hours on the 22d November, I received a message from the [redacted] communicator, our communicator [redacted] [redacted], noting that there was a flash message that required my immediate presence [redacted].

Q By 0300, you mean 3:00 a.m.; is that correct?

A 0300, 3:00 a.m.

Q What is a flash message?

A It's the highest message.

Q What did you do after receiving that information?

A I immediately went to [redacted], arriving about 0400, 4:00 a.m. Read my message, noted there was a second message, directed by deputy also to come in and assist me.

Q Who was your deputy at that time?

A [redacted]

Q Could you spell that?

A [redacted]

Q Then what happened?

A Both of us stood by for the message directing me on special assignment. It arrived. It directed me to stand by to assist a Mr. Richard Copp who -- alias Richard Copp whose true name was Brigadier General Richard Secord.

Q Was that part of the latter communication you received?

A Yes.

Q So that you knew shortly after you arrived that the individual, Mr. Copp, was in fact Richard Secord; is that correct?

A That is correct.

Q Was that a name you recognized at all?

A No.

Q What happened at that point?

A Well, the message told me to stand by and assist Mr. Secord, Copp -- I'll call him Secord from now on -- who was on personal assignment for the National Security Council. I was to contact him at a given telephone number and assist him as required.

Q Were you given any instructions with respect to holding this message close?

A I was told not to discuss it with the ambassador.

Q Do you know from -- from whom or what office you were receiving these messages?

A Yes. It was perfectly clear it was coming out of the Chief of European division, Mr. Duane Clarridge.

Q He has the nickname of Dewey; is that correct?

A Dewey.

Q After receiving the message with respect to Mr. Secord, what did you do?

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A I called the telephone number, turned out to be a hotel. I asked for Mr. Copp's room, connected with it. A female with an American accent answered the phone, told me that Mr. Copp was not there, that he was at the office, and gave me the phone number of the office.

Q Approximately what time is this?

A This would have been at 0430 hours.

Q What did you then do?

A I called the office.

Q What happened?

A I asked for Mr. Copp. Back up. A [redacted] female, or male -- I am not sure which, because at different times it was a male or a female. I asked for Mr. Copp. They called Mr. Copp to the phone. I identified myself, told him I was with [redacted] and had been directed to contact him, and he was awaiting my call. He acknowledged that. I gave him my phone number where I could be reached. I asked what I could do at the time.

He said the only thing he needed at that time was to verify the phone numbers of the prime minister and the foreign minister. He said a very senior official will call them.

At that point he told me to stand by.

Q Let me stop you right there, if I may, for just a moment.

You testified that this -- Mr. Secord wanted to confirm

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the numbers of these national officials; is that correct?

A Let me back off.

I made a mistake there. When I contacted Copp at 0430, he said everything was under control and he would know better by 0945 hours. He asked me to stand by, which I did.

At 9:00 o'clock, I called Copp and then the only requirement was for him to give -- for me to assist him in finding out the phone numbers of the prime minister and the foreign minister. He said a very senior official will call them.

Q I see.

A That was at 0900.

Q At this point he didn't have those numbers; is that correct?

A That is correct. He had some numbers, but apparently they weren't able to get through to them.

Q When you called Mr. Second for the first time and a voice answered on the other end of the phone, did it identify itself as being any company or was it just a "hello"?

A Just "hello."

Q Did that condition obtain throughout your telephone conversations with him?

A During the course of the conversations, it became clear there was a gentleman by the name of [redacted] and later [redacted] and later [redacted]. So I reached the conclusion it was an office or at least a room provided by [redacted] to Copp to accommodate his activities.

Q Was that a name already known to you, [redacted]?

A It wasn't at the time, but I checked our files. It soon became clear [redacted] was clearly identifiable as [redacted].

Q Did [redacted] mean anything to you?

A Only from our files. [redacted]. The files made it perfectly clear -- [redacted]. The files made it perfectly clear [redacted] was an arms merchant and [redacted] is the company he was working for at that time.

Q So upon review of your files you concluded [redacted] was an arms supplier; is that correct?

A That is correct.

Q Now following your conversation that you just described with Mr. Secord where he asked your assistance on the telephone numbers, what happened?

A I stayed [redacted] until 1:00 o'clock. At that time Copp called, Secord called. He advised that previously the foreign minister had approved an El Al charter flight before going to Brussels, but he had not signed the paper.

Now, the morning of the 22 November, the foreign minister was busy [redacted] The foreign ministry is refusing to issue flight clearances until after the foreign minister signed the paper. Secord advised that the plane's departure from Israel's window was 20 minutes away. [redacted]

I [redacted] pointed out negotiations with the foreign ministry would be best handled by the charge who could approach [redacted] at the highest level, the foreign minister -- the prime minister and guarantee confidentiality.

Q What did Secord say when you suggested that?

A He said he would recommend the same to Washington. I made the same recommendation in a cable to my headquarters but was advised not to involve the charge.

Q Was any explanation given at that point?

A None was given. I assume it was because of the operation's sensitivity.

Q At this point, and I am speaking with respect to the 1:00 p.m. phone call you just described, you had not met Secord face-to-face; is that correct?

A That is correct.

Q Did you have any information with respect to the nature of the NSC mission at this point?

A No, but in discussing [redacted] I asked Secord on what basis I could justify the urgency of the flight; and he said I was authorized to use the phrase "humanitarian mission."

Q Did he say where he got that phrase?

A He did not.

Q Was there any other discussion at this 1:00 p.m. phone call?

A With Secord, no.

Q Then what happened?

A After having reported to Washington and gotten my answer back not to involve the charge [redacted]

Q [redacted]

A [redacted]

Q [redacted]

A [redacted]

Q [redacted]

A [redacted] I called Copp, and I updated him on the foregoing. He said that Washington had agreed to bring in the charge. It turned out that Copp had some kind of secure communication with Washington, and it was perfectly clear he was communicating in advance of my traffic.

Q Let me stop you right there, if I may. How was it that you knew that he had a secure communications system?

A He told me.

Q Was --

A I am not sure where along the way, but he would be talking to an American voice in the background. There was another American back there with equipment, and that they -- there were messages going back and forth.

Q So that in your phone conversations with Secord, you would say something to him, and he would relay it?

A I couldn't hear him relay it. I heard him talking to someone in the background; and later, he would tell me what Washington said.

Q He was relaying to you what Washington was saying?

A Yes.

Q All right. Sorry to interrupt there.

A Copp said the plane missed its window but was standing by in Israel.

Q Then what happened?

A Nothing happened then until 4:00 o'clock in the afternoon. Copp called again, said the plane was airborne, and had reached the go/no-go point around 1725 -- that is 5:25 -- hours, same day.

[redacted] the ministry of foreign affairs, [redacted] had decided to oppose the clearance and would recommend the opposition of the clearance, denial to the foreign minister. [redacted] the political counsellor of the American Embassy, [redacted] the day before visited the foreign ministry and was told there had been a request for an American urgent flight to -- [redacted] and that he stated he knew nothing that would justify the mission, because he had nothing in his channels.

Q That is to say [redacted] gave this response; is that correct?

A To the foreign minister.

Q [redacted]

A [redacted]

Q Now at this point, have you involved the charge?

A I have not yet.

[redacted]

At that time, Copp called me; and I told him of [redacted] He said he would wall the White House and request authority to bring [redacted] who was the charge.

Q That is [redacted]?

A [redacted] into the activity.

Q What happened then?

A At this point I received a telephone call on the international circuit from the chief of the European division, Dewey Clarridge. It was a very bad connection, but he was able to convey to me his approval to bring [redacted] into the activity.

At that point, I did so. I called [redacted] and asked him to stand by at the embassy, which he did. [redacted] I briefed him on the activity to date and showed him all traffic to date.

Q Then what happened?

A At 5:00 o'clock, [redacted] called [redacted] [redacted] to get the foreign minister out of the cabinet meeting. We stood by for the next hour waiting for the foreign minister to come out of the cabinet meeting. [redacted] called the foreign ministry several times, [redacted] was standing by at the foreign ministry waiting for the foreign minister to respond.

I informed Copp what we were doing. By this time, at 1800 hours -- 6:00 o'clock -- Copp said that the plane had had to abort and return to israel. I asked Copp what to do next. He said he would stand by for instructions.

Also, it became clear that the foreign minister was not going to come out of the cabinet meeting to respond to our request.

Q That is [redacted] you had no doubt about that at that point?

A [redacted] didn't communicate it, but the foreign minister's actions clearly indicated he was not going to appear. He didn't.

Q Just not responsive; is that right?

A Yes.

Q So then what happened?

A By 7:00 p.m., the foreign ministry still had made no decision. Copp at one point in the telephone conversation noted that the National Security Council was considering how to recycle the mission. At the very same time, [redacted] advised that the White House requested the phone numbers of the foreign minister and the prime minister.

Q What happened at that point?

A I should make one thing clear. On [redacted] request, I asked Washington -- my headquarters -- to find out if the Secretary of State, Secretary of State Shultz, was aware of the mission and if he approved [redacted] involvement. Messages came back during this period saying the Secretary of State and Ambassador Oakley were the only two State officials who were aware of the mission, that they concurred, and that all traffic should be kept in my channels.

Q Let me stop you right there. You made that inquiry and communication came back to the effect that Shultz and Oakley were aware of what was happening; is that correct?

A That is correct.

Q Now --

A They were aware of the mission.

Q All right. Were aware of the mission. Now who was it that responded to you?

A It was coming from the office of Dewey Clarridge.

Q All right.

A Throughout this time, and I don't recall which cables it was that it occurred, Poindexter's name was frequently mentioned as the person who was in Washington responsible for heading up the activity.

Q Did you have an understanding as to who had apprised Shultz and Oakley of this mission?

A No. If I recall correctly, the cables said, "Poindexter advises that..."

Q So to the extent your belief would be that Poindexter advised them, it would be based on that cable; is that correct?

A Yes.

Q All right. What happened at that point?

A About 8:53 p.m. Copp advised that McFarlane was trying to phone the foreign minister.

Q That is Robert McFarlane?

A That is correct. McFarlane at that time was in Europe, had traveled from Brussels, where there had been a NATO meeting, to Rome.

Q And did you learn whether McFarlane ever made that contact?

A Let me make a point just before we get to that. At 10:00 p.m., [redacted] called [redacted] He noted that the foreign ministry meeting had just concluded, but no decision had been reached. [redacted] said the next step is for [redacted] to send a formal diplomatic note to the foreign ministry. The note should include characteristics of aircraft, routes to and from [redacted], and cargo.

Upon receipt, [redacted] said, the foreign ministry would consider the request. [redacted] promised to have the note by 1100 hours on 23 November in [redacted] hands. [redacted] said he would be in his office.

I informed Copp. He said he would allow time for my report to reach Washington. Then he would contact them to discuss the options.

At 11:00 p.m., we received a message directing [redacted] to contact [redacted] and to note that McFarlane had just talked with the foreign minister, who agreed to aircraft clearance.

Q Now receiving this information, what did you do?

A Since it was 11:00 p.m. in the evening, knowing [redacted] officialhood, [redacted] and I decided it would be advisable to wait until the next morning to relay that message to the foreign ministry.

Q I gather that means they are not night owls?

A Correct.

A So I gather you did then wait; is that correct?

A We did that.

Q Okay. Would you pick up again?

A At opening of business on 23 November, [redacted] and I were still in the embassy. [redacted] contacted the [redacted] the ministry of foreign affairs, [redacted] who was the only foreign ministry official available at that time -- a senior official -- and conveyed the above McFarlane message; that is, that he -- McFarlane had talked with the foreign minister who had agreed to aircraft clearance.

[redacted] was not aware of the telephone conversation, and he opined that a diplomatic note would still be required from the embassy.

[redacted] then prepared the diplomatic note and went to the foreign ministry at 1130 hours on 23 November. He presented the note to [redacted] and [redacted]

Q Then what happened?

A During this period, while [redacted] was at the foreign ministry, I was primarily serving as a liaison role at that point between Copp and [redacted]. Copp called to advise of a new plan tentatively involving three flights by two planes to arrive in [redacted] between 23 and 27 November.

Copp said he was having trouble arranging for the planes for a [redacted] -- for [redacted] to Iran link. He said that the president [redacted], a gentleman by the name of [redacted]

Q [redacted] is [redacted] national airline?

A Yes.

-- was stalling for some reason. He asked me to intervene if I could. I said that I would try and get back to him. Also, during that conversation, Copp asked me if I was --

knew what was going on, if I had been briefed. I said that no, the charge and I were in the dark; but we could make some guesses. He suggested that we meet immediately, and I suggested a parking lot at a nearby hotel.

Copp and I immediately separately went there. I picked him up at the front door of the hotel; and he and I sat in my car and talked around 11:30 for 10 minutes.

Q Could you relate the substance of that conversation, please?

A Yes. Copp said his mission was clearly one whereby missiles are being provided for hostages. I asked what kind of missiles. He identified Hawk missiles. He noted that the Iranians with whom they were dealing didn't trust him, that he was operating under a very tight timeframe, and that he appreciated anything that we could do to assist.

Q Let me go back and see if I can parse that statement out a bit.

With respect to the Copp/Secord observation that this was a deal involving Hawk missiles, did he tell you how he knew that?

A He did not.

Q And the same question with respect to hostages?

A He did not.

Q Did he identify the hostages as being those in Lebanon?

A He did not.

Q Now the information with respect to the Iranians, you said that Secord said that the Iranians didn't trust him. Now who is it the Iranians didn't trust according to Secord? Was it him personally?

A He did not expand on that. The impression was he did not trust the Americans with whom he was dealing.

Q The Iranians did not trust the Americans?

A Did not, yes.

Q And there was no distinction drawn between Secord and some other Americans, NSC members, whatever?

A No. No.

Q Was there more to the conversation then?

A Only that I expressed certain views of my own on the -- on my behalf about how we could better assist him. I pointed out to him this was the first time we had a chance to have a secure conversation, so I couldn't have expressed my concerns earlier.

I felt that [redacted], on whom he was obviously relying, was a man whose reputation was such that I did not think that the present [redacted] government would respond to him; and that based on what I knew about him, based on our records, he would not have been one we would have selected to deal with or through.

I also pointed out to him that in dealing with foreign ministries, and getting aircraft clearances, there is far more effective and secure if you do it through the established channels rather than trying to come at them in different ways.

Secord seemed open-minded about this and indicated that if they got involved in such a thing again, he would contact us much more in advance and see if we could do a better job of helping him than we had.

That was the end of the conversation.

Q Could you recount how it was up to that point you were determined that [redacted] was involved?

A Yes. As I noted, his name was cited in different stages during the course of our conversations.

Q By Secord?

A By Secord.

Q Did he --

A Calling him [redacted] and [redacted].

Q Did he tell you what it was that [redacted] was doing for him?

A He did not.

Q Did he refer to [redacted] as being present with him or how did you gather -- did you determine anything --

A It was perfectly clear [redacted] was present with him in the office; and in response to direct questions, Secord said [redacted] had driven him to the meeting with me.

Q Thank you. Following this meeting with Secord, what did you do?

A I returned directly to the embassy.

Q And upon arriving at the embassy, what happened?

A I stood by -- I briefed the charge on what Copp had told me. He briefed me on his visit to the foreign ministry, where he had left a note. Both of us then stood by at the embassy, awaiting the response from the foreign ministry.

By 4:30 p.m., we had received no response. Finally, at 6:00 p.m., we received a call from [redacted] [redacted] told [redacted] a decision had been reached by the foreign ministry; but before conveying the decision, the foreign ministry would require a second note. It had to contain two statements:

A. The operation had been undertaken for humanitarian reasons; and

B. The operation is to free American hostages.

[redacted] said if the note were delivered forthwith, decision would follow immediately.

The implication was the decision would be positive.

Q What did you do?

A None of the three of us, after consultation with Copp -- [redacted] myself, and Copp -- had any difficulty with the first point; but we all got hung up on, obviously, the second point, putting it in writing in a diplomatic note.

Copp decided to defer the problem to Washington.

Q Was that then communicated to Washington?

A Copp said he had communicated the situation to Washington; and he at the same time advised that McFarlane had been trying for the past two hours to reach the prime minister but was not successful.

By 7:30 p.m., Copp advised Washington had responded and that we could anticipate a negative response through my channels to [redacted] request. At this time [redacted] sent a cable recommending an alternate wording concerning the Part B, concerning American hostages, because he believed [redacted] at this point would accept virtually anything we recommended.

But obviously the patience was running out in Washington on this point, and we received an answer to [redacted] cable that said -- simply said the charge should deliver a note to [redacted] saying that we regret your government was unable to fulfil the U.S. government request for this humanitarian mission.

Q That was done, I take it?

A That was done. The charge delivered it to the foreign minister, who was greatly troubled by the tone and the brevity of the response; but he regretted that [redacted] had not been able to respond and [redacted] and hadn't taken -- taken the proper actions to guarantee that appropriate protocol and [redacted] sovereignity were met.

Q [redacted] let me ask you to take an overview, if you would, of your discussions with Secord and ask you if at any point Secord advised you as to why it was that [redacted] had been chosen as a landing point or a clearance point?

A The subject never came up.

Q Following your conversation with Mr. Secord in your car, as you have already described, did you take any formal action with respect to that information?

A I did two things. I immediately wrote a round-up report on what had happened that morning, because given the timeframe, it would have been the opening of business Washington time, 22 November. I sent a cable describing the developments [redacted] on the morning of the 22d; and in that cable, I referred to the conversation with Secord -- the meeting with Secord.

I secondly then sent a cable devoted exclusively to the Secord conversation reporting it in detail.

Q Let me back you up. You have, therefore, two points at which you are recounting the Secord conversation; is that correct?

A I only noted the first cable that the meeting took place; and in the second cable, I recounted the substance.

Q When did the first cable go out?

A It would have been close to 12:30.

Q On 23 November?

A On 23 November.

Q And then the second cable?

A By 1:00 o'clock.

Q By 1:00 o'clock. Same day?

A Yes.

Q Who would those have been directed to?

A All traffic was handled on one channel. That was the eyes only channel, the chief of the European division.

Q Let me ask you just a little more generally, you have served in Washington -- how do these cables express themselves when they come in on the Washington side? Is there a screen they appear on? Do they churn out on a teletype?

A No. This is a privacy channel. It is designed to permit the exclusive communication between the CIA chief [redacted] and the chief of division. As I recall it, a copy -- one copy goes to the chief of European division; two copies go to the Office of the DDO; and there is no further distribution.

It is completely outside of the normal records keeping procedure.

Q But how do these messages appear? Are they in solid, hard copy? As the expression goes?

A Yes. They would be hard copies delivered to the office of the chief of European division or the DDO in envelopes.

Q Does the DDO or the chief, say in this case of the European division, have an officer who stands by and reads these things as they come in?

A His secretary would open the envelope, see that it's slugged for the chief of European division, and deliver it to him exclusively. If he wants to share it, he decided.

Q These two messages that you sent, I gather, were sent to the chief of the European division and then office of DDO; is that correct?

A All of this communication went to the chief of European division with info copies to the DDO. Whether the DDO ever sees it or not, I don't know. That would depend on a screening procedure by his staff assistant.

Q You wouldn't necessarily know that unless the DDO responded to y ou and referred to it?

A That's correct.

Q Having sent off these two cables, did you receive any response to them?

A I can recall no specific response that was required in these two. No, I can't.

Q You received -- did you have subsequent communications with Duane Clarridge's office?

A Yes. All this traffic was to and from. Anything I received from Washington that was giving me my instructions would be from Clarridge.

Q There was no response commenting on those particular cables in particular -- those particular cables?

A I recall none dealing with my conversation with Secord. I recall none dealing with what was contained in my round-up report.

Q Now I gather that you also informed the charge, [redacted], that -- of your conversation with Mr. Secord?

A I did that. He and my deputy.

Q Did he also send any communications to your knowledge out to the State Department in Washington?

A I have no knowledge whatsoever that he sent any communications through his channels to the State Department. I would doubt it very much, or he would have told me that he had.

When the operation finished, what he did do is draft a cable from himself, if I recall directly -- it was to Poindexter. It was [redacted] telegram. He expressed his concerns about the way the entire operation had been handled. I think that I concurred fully with everything that he said, and it went to Washington.

I know nothing from him other than that that went through our channels.

Q That is through your communications [redacted]?

A That is correct.

Q In your communications with Duane Clarridge, did you reach any understanding at any point as to whether Clarridge was handling this alone or whether he was handling it with someone else?

A We didn't discuss it.

Q You were aware that it was an NSC mission. Were you told at any point who in the NSC was handling it?

A The only name mentioned was Poindexter and, of course, Secord on my end. And McFarlane, of course, was in Europe.

Q Have you ever discussed this matter with Duane Clarridge?

A No, I have not. I haven't seen him since the occasion occurred.

Q I am not going to have this marked for the record, but let me describe it for the record.

This is a cable dated December 4, 1986. It is addressed to "Immediate Director." Subject is "[redacted] support to NSC Mission, 22-27 November 85."

The cable comprises four pages with a total of six paragraphs.

[redacted], I show you that cable now and ask you if you recognize that?

A Yes. I drafted it.

Q What is it precisely?

A It is my response to a query from the CIA's inspector general for commentary on [redacted] activity in connection with the NSC mission described.

Q Have you had an opportunity to review that cable?

A Yes, I have.

Q Is that cable an accurate description of your involvement in the NSC mission?

A Yes, it is, with certain minor discrepancies.

Q If you can pick out any of those minor discrepancies, would you do so and note them for the record?

A Yes. The primary one is I identified [redacted] as being an employee of [redacted] He is not an employee of [redacted]. He is an officer of [redacted]. Both are arms firms. That would be the major discrepancy.

Q Following this, did you ever have any other dealings with Secord?

A No, I have not.

Q The two cables that you referred to that you issued on 11/23 at 12:30 and 1:00 p.m., to your knowledge do they exist in any form?

A The first cable containing the general round-up, wind-up, round-up, does exist. I cannot find the second cable.

Q Do you know why that is?

A I have no idea. There are other cables missing. We don't have a completely comprehensive file of all traffic; but that's because of the nature of the channel used. It is outside and is designed to be outside the records keeping system.

Q And I gather that a record is not kept at your [redacted] is that correct?

A No. As I noted in that incoming round-up for the inspector general, in December 1985, I destroyed all copies of all traffic including my [redacted] file.

Q Does your information on [redacted] indicate whether it has any connection to Adnan Khashoggi?

A No.

Q One way or the other?

A No. We have very limited information on [redacted]

Q I also gather that Secord did not at any point identify to you any of the individual persons on the Iranian side of this transaction; is that correct?

A He did not.

Q Did he at all describe to you how it was he became involved in this?

A He did not.

Q Did he tell you anything about how long he had been involved in it?

A He did not. I didn't even know he was not a member of the National Security Council staff.

Q Did you assume that he was at that point?

A All I knew he was on special assignment to the National Security Council. I assumed he was working for the staff. I didn't know he wasn't.

Q Did he tell you that he wasn't?

A No, he didn't.

Q I gather he made no remarks about he had been called in on short notice or anything like that?

A Nothing.

Q Did he provide you with any information on who might be his contacts in Israel?

A He did not.

MR. WOODCOCK: I guess that is all I have.

Tom, do you have any questions?

MR. SMEETON: Maybe just a couple. I haven't seen the material you have there. If I am redundant, interrupt me.

EXAMINATION ON BEHALF OF THE HOUSE SELECT COMMITTEE

BY MR. SMEETON:

Q With respect to these cables that you sent back to headquarters regarding the shipment, as I recall you indicated that Mr. Secord told you that weapons were involved.

A When I talked with Secord, he told me explicitly that it was Hawk missiles.

Q That information was then reflected in one of those two cables that were sent back to headquarters in Washington?

A Yes.

Q Was there any suggestion of a cover story indicating that you should tell [redacted] it was oil drilling equipment rather than weapons at any time?

A No. I was given no authorization to tell [redacted] [redacted] what the equipment was. I was only told that it was -- just say it was for a humanitarian mission.

Q Do you have any insights as to why oil drilling equipment might be mentioned as a possible cover story?

A No. I only heard of it from the media subsequently.

Q After the fact?

A Right.

Q You never heard about it in the context of any of these discussions regarding the operation?

A That is correct.

Q With respect to [redacted] or any other arms manfacturer [redacted], did the name Tom Clines ever come to your attention?

A No.

MR. SMEETON: I think that's all I want to say.

MR. WOODCOCK: I have just one more question.

EXAMINATION ON BEHALF OF THE SENATE SELECT COMMITTEE

Q [redacted] other than Duane Clarridge, was anybody else in his office involved in this, to your knowledge?

A I have no knowledge of that.

Q I gather then that you received no cables back from anybody else with anything other than Clarridge's name on it; would that be right?

A That would be correct. If anyone else sent it in that channel, they would have to indicate to me that it was someone acting in his capacity; and I did not see that.

Q So all channels coming from the Washington side were coming under Clarridge's signature; is that correct?

A Yes. Under the slug that indicates it's him talking. Procedure would require if someone else was, it would be -- they would put the slug and said, "From Acting Chief Eur."

Q Now did your deputy chief [redacted] become involved in this to any great degree?

A Only marginally. I had him, if I recall, only write one cable. He may not even have read all the traffic; but I did discuss some of the traffic with him.

Q Did he ever have any conversations with Secord?

A He did not. I handled all communications by telephone, plus the one meeting.

Q Would that also apply to [redacted]?

A That would be true.

Q So to your knowledge, you would have been the only U.S. government person [redacted] dealing directly with Secord on this matter?

A That is correct.

MR. WOODCOCK: Well, I think that concludes my questioning.

MR. SMEETON: Just a followup regarding your mentioning of the apprising of State Department, specifically Mr. Shultz and Mr. Oakley.

EXAMINATION ON BEHALF OF THE HOUSE SELECT COMMITTEE

BY MR. SMEETON:

Q As I recall, at [redacted] request, you were asked if you would determine who within the State Department was so apprised; and you learned it was Mr. Shultz and Mr. Oakley and nobody else in the Department of State?

A That is correct.

Q And did you get the impression that Mr. Shultz and Mr. Oakley would okay such a transaction or just that they were apprised?

A I think that my impression was the cable was drafted in such a way as to indicate that they approved of [redacted] actions, that they knew of the mission that was happening.

MR. SMEETON: Okay.

[redacted] I have a point to clarify, if I may.

EXAMINATION ON BEHALF OF THE CENTRAL INTELLIGENCE AGENCY

BY [redacted]:

Q [redacted] if you would, since this has been discussed on the record, you indicated that there was one discrepancy which you corrected. Would you just take a quick look at this and tell me if you found any other discrepancies that you could correct for the record right now.

A The only other discrepancy I know, also the phrase [redacted] is used in the second place in here. That should also read [redacted]

Q And you are satisfied that is accurate, looking again at your cable?

A Yes, I am.

[redacted]: That's all.

[Whereupon, at 3:30 p.m., the deposition was concluded.]

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EXECUTIVE SESSION

DEPOSITION OF [redacted]

Wednesday, May 27, 1987

House of Representatives,
Select Committee to Investigate
Covert Arms Transactions with
Iran,
Washington, D.C.

1161

The committees met, pursuant to call, at 9:00 a.m., in Room B-352, Rayburn House Office Building, Neil Eggleston (Deputy Chief Counsel of House Select Committee) presiding.

Present: W. Neil Eggleston, Deputy Chief Counsel; Tim Traylor, Investigator, House Select Committee; Robert W. Genzman, Associate Minority Counsel, House Select Committee; Terry Smiljanich, Associate Counsel, Senate Select Committee; Timothy Woodcock, Associate Counsel, Senate Select Committee; and George Taft, Counsel, Department of State.

Partially Declassified/Released on 22 June 1987
under provisions of E.O. 12356
by B. Reger, National Security Council

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Whereupon,

[redacted]

was called as a witness by the Select Committees and, having been first duly sworn, was examined and testified as follows:

EXAMINATION BY COUNSEL FOR THE HOUSE SELECT COMMITTEE

BY MR. EGGLESTON:

Q [redacted] for the record, my name is Neil Eggleston, Deputy Chief Counsel for the House Select Committee to Investigate Covert Arms Transactions with Iran. Also present are two representatives of the Senate Select Committee. Both committees were established pursuant to resolutions and have various enacting rules. The State Department was provided with copies of both the resolutions and rules. If you want copies for any reason, we can certainly provide them to you.

The mandate of both the House and Senate Committees, which are now conducting joint hearings, is to investigate the circumstances surrounding primarily the Iran affair, but also the United States Government's involvement with the contras. This is being conducted pursuant to those rules.

Let me just ask you at the outset to tell us a little bit about your background in a very brief fashion. If you could just tell me a little bit about your schooling and positions.

A [redacted]

Q [redacted]

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Q

A He was the ambassador, yes. During some of these days we'll talk about, he was out of the country, and I was in charge.

Q You are the Deputy Chief of Mission?

A That is correct.

Q Pardon me, I have not done too much work in the State Department. Others have done a lot. Is there a Chief of Mission?

A The ambassador is called Chief of Mission.

Q You are the ranking person in his absence?

A That is right. The way the embassy is structured, the American Embassy, it is a little different. The Deputy Chief of Mission doesn't have a line responsibility. He, like the ambassador, has general responsibility for all of the functions of the mission. Therefore, he is prepared in the ambassador's absence to take over.

Q [redacted]

A

Q

A

Q

A [redacted]

Q

A

Q Let me ask you then -- now that I have established some background, let me ask you, as I indicated a moment ago off the record, the principal area I wanted to ask you questions about is the time period primarily, say, November 20 through the end of your own involvement in this particular operation. Could you just, without questions or promptings from me, relay the best you can recall what your involvement was when you arrived into the operation of the various functions that you performed.

A Yes. There was, I suppose, one event prior to my actual involveement that's worthy of note. On the 21 of November, the political consular, who was the Acting Deputy Chief of Mission since I was in charge at the time, was called over to the Foreign Ministry and was told that there was an American who claimed to be a retired General seeking [redacted] concurrence for transfer of arms to Iran, and the [redacted] was confused by this and wanted to know what our policy was since we had on many occasions told them our policy was to discourage such shipments.

The Acting DCM confirmed to the government that

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our policy was to discourage shipment of arms to Iran. We reported that in a telegram, which I believe you have access to.

Q That occurred on November 21?

A Yes. And I think we sent the report out the 22. Now, on about noon on the 22, the [redacted] came to me, and he said that he was involved in a very difficult situation, it wasn't exactly how he described it, and he needed my help and guidance, and he said that he received instructions, I believe, the night before or early in the morning to come in [redacted], open up his communications and act upon whatever communications were received. The first telegram that he received instructed him not to inform the ambassador.

CIA CHIEF

He came in, he was told to get in touch with someone acting under a pseudonym at a local hotel or at a telephone number which he assumed was a hotel, and to help him. The pseudonym was R. Copp.

He called him and -- this is as related to me, and probably not in the precision that it was related, because it's been a year and a half -- but essentially he was asked to assist with [redacted] in gaining authorization for the arrival of aircraft bearing arms for Iran, which would be transshipped in [redacted] to Iran. [redacted] was not cooperating because they really

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didn't know what was going on, they were confused. At least that was the sense of it.

CIA CHIEF

[redacted] said that [redacted] [redacted] the Foreign Minister, Prime Minister or someone who worked in those offices to be helpful in this process. [redacted] He didn't know how to go about it and didn't feel he would be successful in any event.

He said he had told Headquarters that he would need the help of the Charge to get these things done; if they wanted it done, they should engage the Charge. I said to him at that point that -- well, we both agreed it was an astounding operation. But, beyond that, I said that I would be prepared to cooperate, but first he needed authorization to tell me what he had told me, and, second, I needed to know that the Secretary of State knew about and approved the operation.

Late that afternoon, I think about 5:00 o'clock or so, he received -- all of this was in CIA channels -- he received a telegram which was purportedly from John Poindexter which asked that I be shown the communication and be asked to pull out all the stops to get approval for the transit, and he said the Secretary knew and approved of the operation and asked that State Department communications channels not be used because only the Secretary and Assistant Secretary Oakley were aware of the operation, given its obvious sensitivity.

Based on that, I got in touch with [redacted] [redacted] and said I needed to talk to the Foreign Minister. He told me the Foreign Minister was in a Cabinet meeting and was inaccessible unless I could tell him that my request was coming from the highest levels of the United States Government. I said I could, based on the assumption this was, in fact, from John Poindexter, who was National Security Adviser to the President at the time.

He then explained to me why they had been negative to this point. He went back over the contact that they had received from a so-called retired American General and why they had summoned our political consul, Acting DCM, to ask him about our policy; and based on our reiteration of our policy that we were trying to stop shipment of arms to Iran, they had decided not to cooperate. This is just by means of explanation.

Q Is this now your first contact?

A This is my first contact with [redacted] [redacted], the evening of the 22.

Q [redacted]

[redacted]

A [redacted]

Q Okay.

A I did not talk to the Foreign Minister that evening. My interest in getting the cooperation of [redacted] [redacted] was passed on to him, but I did not actually talk to him.

Late that evening, it was about 11:00 o'clock or so at night, I received a call from CIA CHIEF [redacted] He had received a telegram indicating that Robert McFarlane, who was then in Rome I was told, I am not sure, but he was in Europe in any event, had talked to the Foreign Minister on the telephone and that the Foreign Minister had agreed to facilitate the transshipment.

I was asked to get in touch with the Foreign Minister's staff and confirm that. I was unable to do so at that time.

At 7:00 o'clock the next morning, the 23, I was called again by CIA CHIEF [redacted] Whoever was sending him the telegrams back here was anxious that we get that confirmation as soon as possible because they wanted to go ahead with the operation. They asked I move as quickly as possible to get the confirmation.

Finally, mid-morning I was able to talk to [redacted] the Foreign Ministry, who said he was aware of a conversation but not aware of any commitment to facilitate the shipment without a diplomatic note requesting it and explaining the reasons for it.

I subsequently talked to the [redacted] Foreign Minister who said the same thing, he said the note needed to contain where the aircraft were coming from, where they were going, the reasons for the operation and the cargo. I communicated all of this, or [redacted] did, back to Washington. We were authorized to deliver a note, which, as I recall, and I am sure you have the text of it, it was rather skimpy, it did not give details about cargo or reasons. I can't remember, but it was by [redacted] it didn't meet [redacted] request.

I took that over and delivered it to [redacted] the Foreign Ministry, [redacted]. Anyway, he received the note, complained to me about the way we had handled it, the whole operation, and noted at the time the note didn't look like it met their needs.

That afternoon we went back and forth several times between the Foreign Ministry and myself, between [redacted] and Washington, about how we might embellish upon the note to make it acceptable [redacted]. The [redacted] meanwhile were meeting rather regularly, the Foreign Minister meeting with the Prime Minister to decide whether or not they would cooperate.

[redacted]

By late afternoon, I had a good sense of what kind of note would meet [redacted] needs, it had to have some information about cargo, but it didn't have to be specific. It had to make some reference to humanitarian purposes, and it had to have the origin and ultimate destination of the cargo.

At this point, the second effort to put this operation together was running up against a deadline, as I understand it. That is, planes were in the area and on route [redacted] and had a turn-around time that was getting fairly short.

Sometime in the afternoon of Saturday, they turned around, and I guess whoever was running the operation back here decided they would do it some other way, because I received instructions to deliver a rather short and curt note that essentially said "thanks for not helping this humanitarian operation."

I had a meeting with the Foreign Minister scheduled for that evening, Saturday evening, about 7:00 o'clock, 7:30. [redacted] meanwhile had been hard at work, and they were at this point, as I understand it, prepared to agree if we provided the information that they requested.

I went to the meeting [redacted]

Q That is the reason I asked you the question earlier.

A [redacted] We were not under the best conditions to meet [redacted] I must say. Anyway, we met, there were about five of us in the room. He had two staff members with him. I showed him the note, and they were very upset because it was in a sense impolite.

Also, we had turned them inside out for about 24 hours, and now we were simply saying "thanks, but no thanks", we don't -- we are not proceeding down this track.

That's essentially it. I am sure there are gaps. Maybe you can ask questions.

Q I will. There are actually not that many gaps.

Let me start by asking you if you could just go over the telegram that you sent or that was sent on the 21. This has been previously marked ERC-1. Maybe, so the record is clear, we should have it marked -- what are your full initials?

A [redacted]

Q -1.

(The following document was marked as [redacted] Exhibit No. 1 for Identification.)

COMMITTEE INSERT

BY MR. EGGLESTON:

Q Let me show you [redacted]-1 and ask you, as best you can recall, if you can elaborate on this, the early conversation of the 21 about the contact between the Acting Deputy Chief of Mission with regard to this contact by the retired General.

A Yes. As I said earlier, [redacted] who was Political Consular, was called over by the Deputy Political Director and told that an official from [redacted] dealing -- well, an arms dealer I guess [redacted], who, as I understand, by the way, is related to one of the officials in the Foreign Ministry, and that's why that contact was made. He was a brother-in-law. That's why the contact was made in that fashion -- had said that he was working in cooperation with a retired American General or a person who claimed to be a retired American General and that they wanted to arrange for the shipment of some arms to Iran.

The Foreign Ministry, knowing of our general policy in this regard, was confused and they had asked [redacted] to come over and reiterate our policy essentially, which he did. We reported back the following day.

Q I take it, as of this time, the Acting Deputy Chief [redacted] did not know the name of the supposed retired American General?

A No.

Q Was there any indication whether the retired General had indicated this was a United States Government operation?

A My impression is yes, but I don't recall precisely.

Q Is this [redacted]-1 a telegram that you sent back to the State Department here in Washington? Is this your cable essentially?

A Yes. It was actually written by [redacted] I saw it before it went out and approved it.

Q Let me just take a look at it and make sure there is nothing in it I wanted to ask you about.

You may or may not know, based upon whether you read the Tower Commission or all sorts of things, there came a time when General Secord receives a letter signed by Colonel North with a signature indication of Mr. McFarlane indicating that Mr. Secord's services are needed with regard to a particular operation. Did you ever see that letter during the course of this time period?

A No, I didn't.

Q So he never showed it to you or to your knowledge did not show it to [redacted]?

A To my knowledge, he did not. He certainly didn't show it to me, because I have never met General Secord.

Q From your conversations with [redacted], do you know whether he ever showed it to him?

A I do not know. I don't think he did.

Q This cable suggests that the Acting Deputy Chief of

Mission responded immediately and forthrightly that this was not a United States Government operation; at least as far as he knew, it was not. I take it, I don't see why there would be, there was no effort by anyone in your office to check with the State Department to see whether or not it was an official United States Government operation.

A No. Our policy was longstanding and fairly clear, quite clear, so there was no attempt to check.

Q And prior to the time that this contact takes place, as far as you know, General Secord, or Mr. Copp, had not contacted anyone at the embassy for help or authorization before contacting officials of the [redacted]?

A I am certain he had not.

Q As of the 21, I take it, you probably think that this is a dead American mission.

A Exactly.

Q You indicate around noon or so, you speak to the [redacted], and he says he needs help in a difficult situation. Did he describe at that time what he had been asked to do by Headquarters?

A Yes. He brought me up to date on everything at that point.

Q Just as best you recall, what is it he told you as of noon on the 22nd?

A He had been asked to get in touch with this individual, and he had done so on the phone, and the person, R. Copp, had told him the United States Government was seeking to assist in the transit of some arms from Israel to Iran through [redacted] and he had been asked to get [redacted] [redacted] approval for this.

Q So it was your notion what he needed was approval for the airplanes to land [redacted], reload, or whatever?

A Exactly. Airplanes to come in with the cargo, reload into other airplanes and take off.

Q As of this time, when you have this conversation with him on the 22nd, did you connect this event with what you had learned the previous day?

A I began to, yes.

Q I take it, as of this time, you don't know whether R. Copp is a retired American General.

A Not until later when CIA CHIEF [redacted] actually met with him and talked with him, and he told him who he was.

Q [redacted]

A

Q [redacted]

A

[redacted]

Q You had indicated that in the afternoon of the 22nd you began to be somewhat concerned before taking steps along these lines, you get authority from your own agency and not merely instructions from the CIA.

A Yes. I told CIA CHIEF [redacted] that I would be glad to help, but only if first of all he had authorization to tell me that I had -- that I was actually requested to do so and that I knew the Secretary of State knew and approved it.

Q I take it, though, at no time -- you followed the instructions not to use the State Department communications system.

A I did.

Q And your communications then are through the CIA channels.

A Total. Under today's ground rules, I would not, but at the time it seemed like a reasonable thing to do.

Q I assume a lot of things may have changed after this both here and in Central America.

Did you involve anybody else in your office, on the embassy staff, in this?

A No.

Q Did you have any conversation with -- you gave us his name, and I forgot it.

A [redacted]

Q About this after the 21st?

A No. I told him --

Q Nothing?

A I told him he didn't want to know. He knew. He knew there were strange things going on, because I was going to a dinner party at his house Saturday night and was about two hours late for it. Since I was at the Foreign Ministry, he knew where I was.

Q So he did not help you?

A No.

Q Or speak to CIA CHIEF [redacted] about it?

A No.

Q You indicated that you never spoke to or never met Mr. Copp?

A No.

Q You indicated on the 22nd, around 11:00 a.m., you received a call from CIA CHIEF [redacted] indicating he received a cable telling him McFarlane had actually spoken to the Foreign Minister, and you said you then took steps in order to confirm. Those steps took place the evening of the 22nd, which were unsuccessful.

Then you had conversations with people on the 23rd. I was a little confused as you went through whether you were ever actually able to confirm that phone call and the agreement that seemed to be reflected to you in the cable.

A In my conversations the next morning, yes, there was a confirmation the phone call had occured. The Foreign Minister that Saturday evening told me he had talked to Mr. McFarlane. The difference between the telegram we received on the evening of the 22 and what [redacted] told me on the 23 was the perception of the agreement of the telephone call. Mr. McFarlane believed that he had agreement from the Foreign Ministry to permit the transit, and [redacted] said that they had agreed to consider it promptly and positively, or whatever. They had some -- once they had the necessary background information.

Q And one of the things they asked you for was a formal diplomatic note that requested their assistance?

A Exactly.

Q You indicated one of the things they wanted was an indication of what the cargo was going to be.

A That is right.

Q Did you have conversations with them that the note would reflect the cargo was going to be weapons?

A They knew by the time I was involved that the cargo consisted of weapons, but I don't believe they knew what kind of weapons.

Q Did they know that from the conversation they had on the 21st or from conversations with [redacted] or from conversations with you?

A They knew that from either [redacted] or from the retired American General.

Q But in your conversations with the people in [redacted], it was always clear the cargo that was going to be on these planes was going to be weapons?

A Yes.

Q Was there any discussion about how you would phrase that in the note, how much specificity they wanted in the note?

A They wanted -- yes, there was. They wanted types and amounts. We didn't provide that in a formal fashion ever.

Q Did they want exactly what kinds of missiles?

A I can't recall that we got into that kind of detail.

Q But they wanted --

A They wanted those things, yes.

Q They wanted formal acknowledgement they were being asked to help in a weapons shipment.

A Exactly.

Q I take it, that is one of the things that concerned them, they wanted a formal request from us to them they help in this somewhat unusual initiative sending weapons to Iran. Is that fair?

A Yes.

Q There comes a time on the 23rd -- well, let me ask it this way. Does there come a time, as far as you know -- I think you indicated there came a time when CIA CHIEF [redacted] met with Copp?

A Yes.

Q Was that on the 23rd, or do you recall?

A As I recall, it was the 23rd. I can't remember whether it was mid-morning or late afternoon. It was sometime on the 23rd.

Q Did he tell you about the meeting he had with --

A Yes, he did.

Q Can you tell me what you recall he related to you about the meeting?

A It was a brief meeting, only about, as I recall, 15 minutes, Copp identified himself as Richard Secord, retired American Air Force General, who was working for the National Security Council trying to put together this shipment of arms. And he simply urged him to be responsive. He also told him what arms were involved.

Q Do you recall today what the CIA Chief [redacted] told you Copp had said to the CIA Chief [redacted]?

A In precise terms, no, although I do know they were Hawk missiles. I was told that by CIA CHIEF [redacted].

Q I have identified some of the cables, I may or may not want to ask you about your recollection.

Is the concept of Zulu time something that is familiar to you?

A Yes.

Q Is Zulu time and actual time in [redacted] the same?

A [redacted]

Q [redacted]

A [redacted]

Q I thought that was true. These time changes are probably a common event for you, but less so for me.

Who was Ambassador Oakley as of November?

A The Assistant Ambassador for combatting terrorism. I think that was the title.

Q Had you ever met Ambassador Oakley?

A No, I never met him, but I knew his role.

Q Bear with me a second. As a result of your memory, there are few I will need to ask you about.

Did you have throughout this time period a sense of how many flights were going to be coming into and out of [redacted]

A Yes. I thought I did. I thought there were two aircraft coming in and two going out. It might have been two consolidated into one going out, but various airlines were mentioned at various times.

Q Did you have any sense of how many missiles they were talking about?

A No, I did not. I don't recall that I did.

Q Do you recall any discussion about a bribe attempt?

[redacted]

A

Q

A Oh, yes, I remember. My perception at the time was although bribery is not out of the question in these kinds of things, this particular [redacted] official might have over-reacted. He seemed very nervous about the whole thing. He might have over-reacted because he received a bribe attempt, I don't know.

Q It didn't appear to you the bribe attempt had come from the United States Government, but from [redacted]

A [redacted] he is half owner of [redacted].

Q Is he the one with the relative in --

A Yes.

Q [redacted] was

helping Secord, who is referred to here as Copp, in this transfer. Did you know that at the time?

A Yes.

Q Did you know [redacted]?

A I don't think I had ever met [redacted]. I have had a lot of -- a lot -- occasional indirect contacts with [redacted] because it's someting that's in the newspapers or in the press from time to time. It is a well-known company.

Q Is it a private company?

A Yes.

Q It is not a government-owned company?

A It is not a state-owned company, no.

Q [redacted]

[redacted]

A Yes, I do recall. Apparently Secord, Copp, and probably [redacted] tried to intercept the Foreign Minister and Prime Minister at the VIP lounge of the airport, they were returning from some trip, the idea being they would try to persuade them to go ahead and agree with all this without going through normal channels.

It didn't work because they landed on the military side of the airport and didn't go through the VIP lounge. Meanwhile, hanging around this place, which has high security and is very visible, they had created -- suspicions is probably a gentle word, but suspicions, antagonism.

Q Do you have any recollection today of how much -- or approximately what day it was the Foreign Minister and the Prime Minister had returned from whatever trip and had gone through this airport?

A My guess is that that was either the 20th or 21st, but I don't know.

Q [redacted]

A

Q I take it there comes a -- you sort of basically have taken us through the 23rd.

A That is right. I have got a note here to take you to the 25th. On Monday, the 25th, I was called in by [redacted] and given two diplomatic notes.

I am sure you have those notes.

But essentially one explained their understanding of the terms under which they would have agreed, and the other one complained about the way we went about the whole operation.

Q I have a cable here that may help you refresh your recollection. Did you receive instructions to keep the possibility of using [redacted] alive and possible as a place in which this operation could be undertaken?

A I don't recall that I did.

Q This may or may not refresh your recollection, but it is CIIN 2211-A, it is a cable to [redacted] from -- and again this is a CIA cable -- from Headquarters to [redacted] dated November 27, Zulu time of [redacted], and just ask you -- this actually makes reference to other things that go previously. If you need it, that would be fine.

A Yes, I do recall this cable. I was shown it at the time. The reason for it, the background is I was fairly confident if we handled it correctly, we could get [redacted] cooperation for a sensitive operation if it was in our national interest to do so.

But these instructions suggest I not raise it with the Prime Minister, but if he raised it, that I sort of keep it open. I didn't talk to the Prime Minister about this case. In talking to the Foreign Minister, I think I left the case

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pretty well a closed case.

Q I take it no one ever came back to you again for help in moving shipments of arms through [redacted] in order to get them through Tehran?

A No. To the best of my knowledge, General Secord had left [redacted] and moved on to greener pastures. I gather I was wrong.

Q Have you ever discussed the events surrounding November 21 to the 27th or so of '85 with the Secretary of State?

A I have not.

Q Have you discussed them -- I guess you have not discussed them with Ambassador Oaklay either?

A I have not.

Q Do you know Dewey Clarridge?

A I met him about 1980 or '81 when he was [redacted]

Q You did not have any contact with him except through these cables?

A That is correct.

Q Do you know Colonel North?

A I never met him.

Q Do you know Admiral Poindexter?

A I have met him in meetings when he was with the National Security Council. I can't say I know him. I am sure

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he doesn't know me.

Q You have never discussed these events with them?

A No.

Q Admiral Poindexter or similarly Mr. McFarlane?

A No.

Q Have you discussed the events of this week in November, '85 with anyone else at the State Department? It is kind of an open-ended question.

A Yes. The answer is yes, I have. I have discussed it with, not in this detail, but with the Assistant Secretary of State for [redacted]

Q

A

Q Was that a contemporaneous conversation?

A No, it was not.

Q Do you recall when it was?

A Last summer. Nearly a year later.

Q But before all these events became public in November, 1986?

A No, on the contrary. I do not believe I ever discussed it -- I am trying to think back. I assumed I had discussed this with [redacted] but I probably had not. I did not open the subject up to any conversation with anybody in the State Department. It was not public knowledge then, I simply didn't do it.

Q You were following instructions to only discuss it with Oakley or --

A Exactly. The only other person I did discuss it with was [redacted]. When he returned, I told him what had occurred, and besides saying, "Thank God, I wasn't here," he really didn't have anything to add. I feel fairly confident he didn't discuss it with anybody at the State Department.

Q [redacted]

A

Q

A

Q

A

MR. EGGLESTON: I don't have any other questions.

BY MR. SMILJANICH:

CIA CHIEF

Q Did [redacted] ever put a name behind who at Headquarters was giving instructions?

A Ever is a long time. He did afterwards. I am trying to remember whether he did at the time. He explained the type of channel he was receiving the instructions on, which was a privacy channel, and it came from the operations side, but I don't know that he mentioned Clarridge's name.

Q What about after the fact?

A After the fact, yes.

Q Anyone else?

A No. I mean, I know that Clarridge, Deputy Director of Operations, theoretically might have been involved, although I also gather he may have been out of town at the time.

Q There are independent communication channels that are available to you that run directly to the Secretary of State, is that correct, as Charge?

A I could use State Department channels and have a highly restricted distribution on this end, but none that I would feel confident using under the circumstances at the time.

Q So there is, in fact, no way in which you could have directly communicated only with the Secretary of State and no one else?

A Not at the time. I have a telephone now. But at that time, we didn't have.

BY MR. WOODCOCK:

Q [redacted] I am Tim Woodcock with the Senate Committee. I am going to have to jump around a little bit, as I was following these notes. The information that you first received from [redacted], I take it [redacted] [redacted] received it first --

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A That is correct.

Q That referred to a manager of the firm [redacted]?

A I believe that was [redacted].

Q So that from your understanding [redacted] was involved early on, as well as the person waiting in the VIP lounge?

A That is my understanding. I was not in the VIP lounge, so it is second-hand information.

Q [redacted]

A [redacted]

Q [redacted]

A [redacted]

Q In his pre-hearing remarks, General Secord said that he personally had some reservations about the use of [redacted] because he said [redacted] was "not smooth". Do you know enough about [redacted] to know why he would be considered not smooth?

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A I have an impression that [redacted] is heavy-handed, but that is an impression, not based on my knowledge. To my knowledge, I haven't met the man.

Q When you say heavy-handed, what do you mean by that?

A Too direct, rather blunt, given to bluster.

Q Do you have knowledge at all of [redacted]?

A I have met [redacted].

Q He is also a partner in [redacted], is that correct?

A That is correct. I think he and [redacted] own equal shares, perhaps. I am not sure. But he is partners with him.

Q Do you know of any involvement -- I am speaking broadly here -- of Thomas Clines in [redacted]?

A I do not.

Q Do you know Thomas Clines?

A No.

Q Do you recall at what point you learned that Copp was, in fact, Richard Secord?

A When CIA CHIEF [redacted] returned from the meeting with him, which was sometime during the day of the 23rd.

Q Did the name Secord mean anything to you?

A No, it didn't.

Q When Ambassador [redacted] returned, you testified you briefed him on the matter. Is it also true CIA CHIEF [redacted] participated in that briefing?

A I am certain he did at ont point. Whether -- I

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can't recall whether I briefed the ambassador independently first or we did it altogether. I am not sure. The normal, of course, event would have been that I would have given him a very brief summary of what happened and asked CIA CHIEF [redacted] to go through it all. But I can't recall that's the way it happened. It's a question of trust involved here.

I have very high regard for CIA CHIEF [redacted] as an honest person, as a person of integrity, and I think that's probably reciprocated. I wouldn't want you to read into what I have said anything that suggests I have cut him out or he is trying to cut me out of any conversation with the ambassador. That was not the case.

Q Thanks.

Did CIA CHIEF [redacted] advise you that he was in regular communication with Headquarters?

A Yes.

Q Did he advise you that he had relayed to Headquarters the information that General Secord had told him about the nature of the airplane mission?

A Yes.

Q Did he advise you of that on November 23 or long after the fact?

A On November 23, [redacted] and although I did not see all of those, I did see some of them. He told me what was in them. Normally

I saw them, and he provided a running account of what was going on [redacted] to Headquarters.

Q Your understanding --

A Within that running account was the conversation with Secord and the indication the aircraft would be carrying Hawk missiles, yes.

Q You are referring to a running account, and I gather that is the account CIA CHIEF [redacted] has given you. Is that correct?

A No, I mean that he was giving Langley.

Q I want to divide this into two parts. There are actual communications going to Langley from CIA CHIEF [redacted], is that correct?

A Yes.

Q When you refer to a running account, that is what you are referring to?

A Exactly.

Q With respect to the communication which CIA CHIEF [redacted] made to Langley recounting the substance of the Secord conversation, did he simply tell you about it, or did you actually see it?

A I don't know.

Q You don't recall?

A No.

Q I gather some of the messages he sent out you actually saw, and others he told you about, is that correct?

A That is correct.

Q But I gather --

A [redacted] I can't recall I saw that.

Q That specific one?

A That is correct.

Q Your memory is clear, I gather, on the point he did tell you contemporaneously with sending the message he had communicated with Headquarters on the substance of the Secord conversation.

A That's what I recall.

Q I gather -- you have already testified to this, just to make it clear -- that conversation recounted the nature of the cargo being Hawk missiles to the destination point being Iran and the purpose being for the release of the hostages, is that correct?

A That is correct.

Q Do you recall whether Ambassador [redacted] communicated any dismay to CIA after the fact about the manner in which this whole operation had been handled?

A My impression is that he did not. He intended to, he said he was going to. My impression is that he did not.

Q Now, was that at your suggestion, or was that his idea?

A Well, he was appalled by it, let's put it that way,

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so I can't recall whether it was my suggestion or his idea, but it could have been either.

Q You were in accord with it, is that correct?

A Yes.

Q Would that have gone -- if that communication had been sent out, would that have gone to the Director of Central Intelligence, Mr. Clarridge, or some other person?

A It would have gone to the Director of Central Intelligence, because Ambassador [redacted] and the Director were personal friends, as you probably know. Can I go off the record for a second?

MR. EGGLESTON: Sure.

(Discussion off the record.)

BY MR. WOODCOCK:

Q Have you heard now, subsequently, through all these events, whether Thomas Clines was even present in [redacted] during these operations?

A I have read thathe was. But I don't know by my own knowledge. I have not talked to anybody in [redacted] that says he was there. I never asked [redacted] whether he was there, who was one of those two partners I have met.

Q Have you ever sought to confirm through your contacts in [redacted] whether it was, in fact, General Secord who went to the VIP lounge?

A No, I have not.

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Q Has anyone in [redacted] confirmed to you that this attempted bribe, or whatever the attempted influence was, was sought to be effected in the name of Robert McFarlane?

A No, I have heard nothing along those lines. I am only vaguely aware of this concern about a possible bribe, and certainly not in terms of utilizing Robert McFarlane's name.

Q Did this incident which occurred [redacted] [redacted] have any lasting effect on relations between the United States and [redacted]?

A That's a difficult assessment to make. It's possible that it created some suspicion within the government about how we deal with other governments. It also might have had a concern this particular government had [redacted] so it may have complicated the relationship somewhat, but I can't be sure. [redacted]

And I might add, if I can, for the record, that that really accounts for why I did not seek further information about who was really at the VIP lounge. As far as I was concerned the event was over with, and we were better off going ahead trying to build the relationship rather than spend too much time worrying about what had happened.

Q I may have asked this question already, but let me ask again. Following this incident, did you come across, through your sources in [redacted], any association of either General Secord or Thomas Clines with [redacted] in subsequent dealings?

A No, I was not aware of General Secord or Tom Clines, Thomas Clines, being in [redacted] after that, until I read about it in the press a few months ago.

Q Now, the same question only with respect to association or involvement with [redacted] before the events of November 22, 23 and 24, 1985.

A I am not sure what the question is.

Q The question being, did you come across information in your contacts in [redacted] of association of General Secord or Thomas Clines with [redacted] at any period before November 22, 23, or 24?

A No. At least none that I can recall, because I wouldn't have recognized those names at the time, in any event.

Q I am speaking -- this is after the fact, even up to the present. Have you, through your [redacted] contacts, received confirmation of the involvement of these people with [redacted]?

A I haven't.

Q Let me ask you the same tandem of questions with respect to Albert Hakim. Is that a name you are familiar with through your contacts in [redacted]?

A No.

MR. WOODCOCK: I think that is all I have. Thank you, sir.

BY MR. GENZMAN:

Q Regarding the curt note delivered to [redacted] [redacted], was that at the instructions of Admiral Poindexter?

A It was my assumption it was at the instructions of Admiral Poindexter. It came through the CIA channel, and it was purportedly under his instructions, yes.

Q And was the wording of that note also from Admiral Poindexter according to your information?

A Yes, it was.

Q Was there any Department of State approval or Secretary of State approval --

A No, there was not.

Q -- of the note?

A Not that I knew of. Once again, going back to the basic operating thesis, that is I was operating on the basis of my understanding given to me through CIA communications that the Secretary knew and approved; therefore, that was just an extension of that.

I might, if I can, sort of expand here. You asked or Mr. Eggleston asked if I had ever discussed this with the Secretary of State or with Assistant Secretary Oakley after that event. First of all, I don't really have many occasions to meet with either one of them, and I have only been back to the United States once since then, and that was last summer, or twice last summer, I am sorry, briefly. To that point, this had not become public knowledge, so I didn't discuss it with anybody else.

My assumption still at that time was that they knew and approved. I had no reason to believe otherwise, and, therefore, I didn't seek an opportunity to raise it.

MR. GENZMAN: I have nothing further. Thank you.

MR. SMILJANICH: One last question.

BY MR. SMILJANICH:

Q Physically, when you received the wording of the diplomatic note via VIP channels, did you take that or re-do it?

A It is done on a standard diplomatic note format. It was done by a secretary [redacted]

Q Did you retain a copy of that?

A Yes, I have a copy.

Q Back in [redacted]?

A Yes. I believe you have it. Do you not have the context of it?

Q I don't know we have anything other than the CIA cable itself.

MR. EGGLESTON: I don't know I have seen it in the formal fashion.

BY MR. SMILJANICH:

Q Was a copy of that ever sent to any office here at the Department of State?

A No.

MR. EGGLESTON: I don't have anything further.

MR. WOODCOCK: Let me ask a coupl^ questions.

BY MR. WOODCOCK:

Q When you received this terse note, would it be fair to say you were concerned about the quality and tone of the note?

A Yes. We appealed actually.

Q How was that done?

A As I recall, it was done in CIA [redacted] communications. It is possible, however, and I don't know, it is possible that -- because sometimes communications came via Secord. He had his little radio. So some of the appeal might have gone through those channels, or CIA chief [redacted] might have talked to Secord and said, "Look, we can probably get this done if you do it this way" and -- but I don't really recall. We did appeal, I appealed personally the tone of the note and substance of the note. I thought we were throwing away an opportunity to get it done if they really wanted it done.

Q You testified that you were instructed not to communicate through State Department channelse at the outset, is that correct?

A That is correct.

Q So your personal appeal was directed, to the best of your recollection, either through CIA channels or through Secord's communication device, is that correct?

A That is correct.

Q Who would that have been directed to, CIA Headquarters?

A Yes, CIA Headquarters. Whoever was -- actually, it was to the NSC as far as we were concerned. The instructions that came out [redacted] were this is a NSC operation, or the NSC asks that you or instructs that you do the following, as I recall the opening telegram. So all of this was we were working for Admiral Poindexter as far as we were concerned.

Q So under those circumstances, I gather, it would have been inappropriate for you to have appealed to the Secretary of State, is that correct?

A Yes. My assumption at that point would have been the Secretary of State, although aware of the operation, was not aware of the details at this point. Time was running out. It wouldn't have been a reasonable thing to try to do.

Q Now, let me just ask a couple more questions. You testified you never met Secord, is that correct?

A That is correct.

Q So, therefore, your knowledge of this communications

CIA chief

device he had is coming from [redacted], is that correct?

A That is right.

Q I gather, then, you were relying upon his representation this was a Secord communications device, is that correct?

A That is correct. The only reason that -- I mean, we became aware, CIA [redacted] and I became aware almost inadvertently Secord had his own communications device because he was able to get things out of Washington we subsequently got through CIA channels. He would be on the telephone saying such and such is happening.

Q I take it there were points in this operation where Secord was, as they say in the CIA, waiting in advance of you and CIA CHIEF [redacted], is that correct?

A I think that was the case most of the time. In retrospect.

MR. WOODCOCK: I think that is all I have. Thank you, sir.

MR. EGGLESTON: Thank you.

(Whereupon, at 10:32 a.m., the committees were adjourned subject to the call of the chair.)

otson/drg
end

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# TRANSCRIPT OF PROCEEDINGS

SELECT COMMITTEE TO INVESTIGATE COVERT
ARMS TRANSACTIONS WITH IRAN
U.S. HOUSE OF REPRESENTATIVES
AND
SELECT COMMITTEE ON SECRET MILITARY ASSISTANCE
TO IRAN AND THE NICARAGUAN OPPOSITION
UNITED STATES SENATE

* * *

Unless marked Ⓓ, all changes are & ~~edit~~ nonsubstantive edits to transcript

## Deposition of ABRAHAM D. SOFAER

* * *

Partially Declassified/Released on 24 June 1987
under provisions of E.O. 12356
by B. Reger, National Security Council

1315

Washington, D. C.
June 18, 1987

Pages 1 thru 93

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SELECT COMMITTEE TO INVESTIGATE COVERT
ARMS TRANSACTIONS WITH IRAN
U.S. HOUSE OF REPRESENTATIVES
and
SELECT COMMITTEE ON SECRET MILITARY ASSISTANCE
TO IRAN AND THE NICARAGUAN OPPOSITION
UNITED STATES SENATE

Washington, D.C.
Thursday, June 18, 1987

The deposition of ABRAHAM D. SOFAER, called for examination in the above-entitled matter, pursuant to notice, in the offices of the Senate Select Committee, Room 901, Hart Senate Office Building, Washington, D.C., convened at 3:06 p.m., before Pamela Briggle, a notary public in and for the District of Columbia, when were present on behalf of the parties:

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APPEARANCES:

On Behalf of the Select Committee on Secret Military Assistance to Iran and Nicaraguan Opposition of the United States Senate:

MARK BELNICK
Executive Assistant to the Chief Counsel
-and-
TERRY SMILJANICH
Associate Counsel
Room 901
Hart Senate Office Building
Washington, D.C.

On Behalf of the Select Committee to Investigate Arms Transactions with Iran of the U.S. House of Representatives:

TIMOTHY E. TRAYLOR
Special Agent
Federal Bureau of Investigation
1900 Half Street, S.W.
Washington, D.C.

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| Sofaer 3 | |
| Sofaer 4 | |
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| Sofaer 6 | |

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P R O C E E D I N G S

Whereupon,

ABRAHAM D. SOFAER

was called for examination by counsel, and having been first duly sworn by the notary public, was examined and testified as follows:

EXAMINATION

BY MR. BELNICK:

Q Good afternoon, Judge. By way of background, you've had a distinguished career and I just want to go over some of the highlights.

Prior to becoming legal advis~~o~~er you've been a prosecutor?

A Yes, I was a federal prosecutor from 1967 to 1969.

Q And subsequent to that?

A I was a law professor at the Columbia Law School for 10 years, '69 to '79.

Q And then after that you became a federal judge in the Southern District of New York?

A That's correct.

Q And served on the bench until?

A The district court until 1985.

Q And you've been the legal advis~~o~~er at the U.S. State Department from that time until now?

A Correct.

Q Judge, when was the first time--I want to question you about the Iran initiative, but let me take a small subject up first. You're familiar during 1985 and 1986 with the existence of a restricted interagency group at the State Department that dealt with Latin American affairs including Central America, correct?

A Yes.

Q And that was chaired by Assistant Secretary Abra~~h~~ms?

A I had heard about it. I don't know anything about its operations.

Q Did you know who the members of that RIG were?

A No.

Q Was the legal advis~~o~~er's office represented on that RIG?

A No.

Q Was there a desire on the part of the legal advis~~o~~er's office to be represented on that RIG?

A Yes.

Q Did you take actions to achieve such a result?

A I didn't take any actions. I asked my principal deputy, Michael Kozak, who is a long time associate of Jim Mich~~a~~el, who had become the principal deputy in ARA, to take up with ARA the question of getting legal representation on the RIG, and generally getting more legal input into the Central American policy.

Q And approximately when did you ask Mr. Kozak to pursue that?

A I believe I started asking him and complaining and [redacted] [redacted] talking to him about the subject within months of my arrival in the State Department, late '85.

Q This would have been sometime in the fall?

A In the fall of '85.

Q By that point Elliot Abra~~h~~ms was ensconced as Assistant Secretary for ARA?

A Yes.

Q Did Mr. Kozak report back to you on the results of his inquiries?

A Yes, he said that it was unacceptable.

Q What was unacceptable?

A To have a member of the legal advisor's office to be a part of the RIG.

Q Did he tell you--did Mr. Kozak tell you who had advised him that it was unacceptable?

A I don't recall.

Q Did you pursue it thereafter?

A No, I didn't. I, first of all, assumed that if there were any legal issues they would be brought to me. And Kozak, of course, told me that that would be the case, that we were given that assurance.

And furthermore, while I wasn't told whether Jim b7

Michael was involved in Central American issues or not involved in Central American issues, I assumed that his presence in ARA was a responsible factor in not having to have other lawyers participate, he being far more experienced that either Kozak or me.

I did not regard him as a substitute for the legal adviser's office.

Q You still would have preferred to have your office represented?

A Absolutely. I frequently told Kozak that I thought that Jim Michael's presence in ARA was a liability for us, the legal adviser's office, because it could mean potentially that people would use Michael for legal advice instead of us.

Q Did you ever discuss the RIG and your desire for representation on it directly with Secretary Abrams?

A No.

Q Do you know who the members of the RIG were?

A Not at that time. After October 1st, 1986 I did.

Q And how did you learn--after October 1st, 1986 there was a change in the nature of the RIG?

A There was a change in the legislation that led me to renew my interest in having a representative of the legal adviser's office be present at policymaking sessions about Central America.

Q This was once Congress restored the aid and came in with $100 million, that package?

A It wasn't that. It was the fact that the legislation for the first time [redacted] expressly made the Secretary of State [redacted] responsible for Central American policy.

Q And after that you had a discussion with Abrams about legal being represented on the RIG?

A Yes.

Q And he agreed to it?

A Yes.

Q And you are represented on that RIG now?

A Yes, as far as I know, yes. I think Olson sits in or Kozak.

Q Let me turn now to the subject of Iran. Prior to the disclosures of an American involvement with arms to Iran, the disclosures of November 1986, had you been made aware of what we now call the Iran initiative?

A Prior to November 1st, 1986, I was unaware.

Q You had never received a briefing from the Secretary or any of his advisors on that program?

A On no occasion.

Q What was your first official involvement in matters pertaining to the Iran initiative subsequent to November 1, 1986? And if you want to use your notes to refresh your recollection, that's fine.

A It was on November 18th, 1986 when a conference was called by the White House counsel related to the Iran arms issue.

Q Who was at that conference, do you recall?

A Wallison was there, who was White House counsel; Cooper; Thompson, Paul Thompson of the NSC; Dave Doherty, CIA general counsel; and a couple of other people may have been there. But those people were definitely all there.

Q And this meeting was at the White House?

A Yes.

Q And by whom had the meeting been called?

A I seem to recall that it was Wallison.

Q Tell us what you recall having transpired at the meeting. And you're free to refer to your notes if that helps.

A Thank you. Wallison said that we needed the facts relating to the arms sales to Iran. By that time it was clear that such sales had occurred. Initially, [redacted] denials were published in the press and even I was doubtful that it was true. But by then it was quite clear that it had occurred. [redacted] There was going to be a press conference with the President. And Wallison, as his lawyer, no doubt wanted to know more about it. [redacted] One of the major lessons I learned at that meeting was that he knew as little as I did.

At that meeting I found that Cooper--

Q Now that's Chuck Cooper from the Justice Department?

A Yes, Chuck Cooper who is Assistant Attorney General in the Department of Justice. And Paul Thompson of the NSC, and to an extent, Doherty, although he didn't say as much, they knew a lot more than Wallison did.

Cooper's knowledge, however, seemed to be related to the legal issues. He explained that there was a finding adopted on January 17 or so of--

Q This is Cooper now?

A Cooper. And that from January '86 on all activities were pursuant to that finding and all arms shipped were pursuant to the Economy Act. At least this is my understanding. It may have been Thompson who said this, but I think Cooper already was aware of a finding. I'm not sure.

Q Did Mr. Cooper say for how long he had been aware?

A No, he didn't.

Q Did you understand--did he give you the impression that he had known about it all along?

A No.

Q Or that this was something he had just found out in the course of--

A He gave me the impression that he had been assigned the job of figuring out the legal issues involved. And he had looked at a 1981 opinion that was written by the legal advisor. Actually it was written by Jim Michael, signed off by the legal advisor, and sent over to Attorney General Smith

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who had approved it, relating to the transfer of certain arms.
[redacted]

Q Judge, you've said and your notes indicate that Peter Wallison, then the President's counsel, said at the meeting that he needed facts and that he couldn't give advice without the facts, correct?

A Yes.

Q Who was he asking for the facts?

A He was asking Thompson essentially, and to an extent, Cooper.

Q And what was Thompson's response?

A Thompson said that on that day the White House was going to [redacted] brief [redacted] Intelligence Committee staff on the Hill. We pressed him for at least as much information as he was going to give to the congressional staffers and he refused.

Q Did he tell you why?

A He said that Poindexter had instructed him not to give out any information to anyone who didn't need to know it. Our position was that, in order to advise our clients on the legal issues involved, we did need to know it. And at a minimum, we should be told what was going to be told to staffers.

Q And he continued to refuse?

A Flatly refused, with considerable embarrassment.

Q But on instructions, as he put it, from Admiral

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Poindexter who was then the President's national security advisor?

A Yes. He also said that--

Q Just so I get this straight, being a civilian. Paul Thompson was then counsel to the National Security Council?

A He was counsel to the national security advisor. I don't think he had the same rank or title that Paul Stevens has now.

Q Let me ask you. Do counsel to different departments, such as the National Security Council or the legal adviser himself, your position, do they have each as their ultimate client the President of the United States?

A Absolutely.

Q And Peter Wallison--

A Particularly someone like myself who's nominated by the President.

Q So that in addition to being the legal adviser to the Secretary of State, you're also one of the President's lawyers?

A Yes.

Q And the same would be true of Thompson for that matter?

A I would say so.

Q And certainly Peter Wallison directly was counsel to the President, correct?

A Correct.

Q And you're telling us that at this meeting counsel to the President was asking another counsel to the President [redacted] for facts so that he could give the President advice and Thompson said, no, on orders from Admiral Poindexter?

A Yes.

Q Didn't you find that unusual?

A Absolutely.

Q. And disturbing?

A Very disturbing. He gave as his reason that the lawyers who needed to work on the issue--and I gathered by that he meant Doherty in the CIA and Cooper from the Department of Justice--had been briefed adequately to work on the issue. And that [redacted] those were the people in charge of legality as he put it.

Q According to Thompson?

A Right. And he said that from the political point of view that things seemed calm and the committees seemed to be accepting the position of the White House and there was really no need to get the issue more broadly briefed.

Q Did you make any comment in response to that position?

A Well, I thought that Wallison was right and that we should get more information. But I did say that they could handle it that way. They could choose to restrict access to the facts to the Attorney General and his designee, and the CIA director and his designee.

But that as a result of that, they could not look to us for legal opinions at all. That [redacted] the Attorney General would then bear the full role with respect to the legal issues. He could not look to the Department of State and the legal adviser's office, or to White House counsel for that matter, for legal support.

Q Did Thompson or Cooper make any response to that as you recall?

A His response was that people are learning--

Q This is who, Thompson?

A Thompson. That people are learning that this is an intelligence operation not an arms sales as such, and they're calming down.

Q Now your notes indicate that you asked whether the usual vetting process would be followed. What did you mean by that?

A There is a process for all findings and intelligence activities that [redacted] before they go to the Hill they come through the agency process. [redacted] Now that they were going to brief the Intelligence Committee on this, would we be briefed on it, would we find out about it in the usual manner, would we be involved in the process of analyzing the issues as we went along? And he said he assumed that we would.

Q That was Thompson again?

A Yes.

Q Now you had said that Cooper, when he was giving some statement of facts that he had learned, mentioned the finding that the President had signed sometime in January 1986, correct?

A I believe it was Cooper.

Q Did Cooper mention any other finding that the President signed in connection with Iran?

A No.

Q Did Thompson mention anything about findings?

A No.

Q Was there any--

A But Thompson knew about the finding also and he mentioned [redacted] the same finding. He confirmed that there was such a finding.

Q Did he mention [redacted] any other finding?

A No.

Q Was this the first time you had heard that there was any finding relating to an Iran initiative?

A Absolutely.

Q Was there any discussion at this meeting on November 18 of specific shipments? I notice on the next to the last page of your notes there seems to have been some discussion, if I'm right, about the September arms transfer. And I assume that was September '85 unless you tell me otherwise.

A Yes.

Q What was that discussion?

A There was a statement that the finding was in January, and there were two issues that arose. One was a post-August '86 shipment--at least one that was concluded after August '86 when a new law took effect--and its legality despite the finding. And pre-January '86 shipments of which I was told there was one which had gone via Israel in September '85.

Q Who said there had been that shipment?

A I don't recall who said it exactly, but it's quite clear it was said at that meeting. Let me see if my notes reflect that.

Yes, Thompson said it. It was a September shipment through the government of Israel and they transferred--the government of Israel transferred arms to Iran. He described it as [redacted] a transfer of arms by the government of Israel to Iran.

Q Did Thompson give you the impression or did he state that this was the only shipment that had taken place, or only transfer of U.S. arms to Iran that had taken place prior to the finding of January 1986?

A Yes. He didn't say so, but he didn't go into any others. And it was a focus of discussion because that would raise, obviously raise a very serious legal question. The finding was in January, what happened before the finding?

Q And his answer to the question, what happened before the finding was the September transfer?

A Well, it wasn't as much an answer to the question. He was the one who mentioned the September transfer. And then when the issue of our role arose, I pointed out that there were real legal questions involved irrespective of what he might think. And one of them was the September transfer.

Cooper said, for example, you see on page 3 of my notes, Wallison says, without the facts what is the legal analysis? How can we do this? Cooper says, we're still studying it. Then I raised the question, what about the September transfer?

And what I was saying was, you may have a good explanation for the shipments after January because they occur under the Intelligence Act rather than the Arms Export Control Act, but what about prior to January? What's your explanation for that September shipment that Thompson had mentioned?

Q And that was the shipment that he apparently mentioned early in the meeting judging by your reference on the first page of your notes. That there had been a September shipment The government of Israel transferred arms to Iran. And then he says, finding January 17, 1986?

A Precisely.

Q So as far as you understood from what Thompson said, that was the only transfer that had occurred prior to the January '86 finding?

A Right.

Q And Thompson did not tell you that he knew otherwise?

A Basically what I said--in fact on my last page you can see, the last page of the notes--I said to him, you would have to look to the AECA--

Q The Arms Export Control Act?

A Yes, with respect to the September '85 finding. And then I asked him, did the President approve it, because then it would depend upon Presidential approval under that statute. And of course, then later I found out that there might be an argument for an oral finding by the President.

In either event, whether the President had approved that finding would become a major legal question.

Q That transfer?

A That transfer, right.

Q Did Thompson answer whether he had approved it?

A No.

Q He didn't answer one way or the other?

A No, he didn't at that time.

Q On the last page of your notes, Judge, there's an indication that Thompson said, total value about $14 million.

A That's correct.

Q What was he saying?

A He was saying--it was really addressed to the Arms Export Control Act issue, because I knew that the reporting requirement under the Arms Export Control Act depended in part upon the total value of the arms that were either shipped directly or transferred by a third country.

Q And Thompson was telling you that the total value of the arms shipped to Iran in this whole program was about $14 million?

A Correct.

Q Did he tell you anything about how the arms had been priced?

A No.

Q Give you any information on that?

A Not at that time.

Q So if I understand correctly, the overall impression that Commander Thompson at least tried to convey was that he couldn't give much information, that he was under instructions from Admiral Poindexter not to give information, but that this was really no big deal, it was under control?

A That's right.

Q Generally speaking.

A Yes.

Q When the meeting ended, did you have a conversation with Mr. Wallison about what the two of you had just heard or not heard?

A Yes. I told Wallison that I thought this was extremely serious.

Q That what was serious?

A That we had not been briefed. And that they were going to say things to Hill staffers that they weren't telling us--shocking. And that it was particularly serious from his point of view because he was the President's counsel and that he should act accordingly.

He [redacted] agreed with me, and he asked Thompson to remain at the end of the meeting to talk to him.

Q Were you there when Wallison spoke with Thompson?

A No, I left the meeting.

Q Were you then notified that Poindexter would see you later that day?

A That's correct.

Q You received a message that you and Undersecretary for Political Affairs Armacost could see Poindexter, as I understand it, at 6:00 p.m. for a briefing on the Iran program?

A That's right.

Q And did you and Secretary Armacost go to the west wing at 6:00 p.m. on ~~June~~ November 18th?

A Yes, we did.

Q You met with Admiral Poindexter?

A Yes.

Q Was anyone else there?

A Thompson.

Q The four of you?

A Yes.

Q And could you recount for us what transpired at that meeting? And again, please feel free to refer to your notes. And I know we also have a memcon prepared by you of that meeting which we can mark. But I'd like you first to go through your recollection and notes of what happened.

A Poindexter presented a review of some of the facts relating to these transfers. And he did--undoubtedly he was referring to what appeared to be a chronology. ~~And a~~At one point, in fact, it came out that he was referring to a chronology, so I was confident that he was referring to a chronology.

Q Did he show you that chronology?

A No, he did not. ~~[illegible]~~ At some point either I or Armacost asked whether we could see the chronology and we were told we could not.

Q Did he say why not?

A He didn't say we couldn't ever see it. He conveyed the impression that right now it wasn't complete, and we got the sense that perhaps in due course we would be seeing it. Keep in mind that this was the first briefing that I was receiving, so anything that I was getting was more than I had gotten before, so we were not complaining.

He then gave us a relatively sketchy outline of what had happened. And it was not given in strictly the chronological order that is reflected in my memcon.

Q While we're referring to the memcon, let me mark as Sofaer Exhibit 1 this document.

[Sofaer Exhibit No. 1 was marked for identification.]

BY MR. BELNICK:

Q And ask you, Judge, if this document so marked is your memorandum of conversation of the November 18 meeting with Armacost, Poindexter and Thompson?

A Yes, it is.

Q And this summarizes in more or less chronological order what you were told by Admiral Poindexter, albeit not in chronological order at that meeting?

A It wasn't entirely in chronological order. He jumped around, but I tried to keep it in chronological order.

Q Looking at this memorandum of conversation, the only pre-January 1986 transfer of U.S. arms to Iran that is referred to is a transfer in September 1985, numbered paragraph 3 of your memcon; is that correct?

A That's correct.

Q And is that your recollection? Namely, that that was the only pre-1986 transfer that Admiral Poindexter told you about?

A Yes.

Q That was the same one that Commander Thompson had told you about earlier in the day?

A Yes.

Q Was there any mention at this November 18 meeting of the fact that there had been a transfer in November 1985?

A No.

Q Was there any mention at this meeting that there had been a transfer of Hawks prior to January 1986?

A No.

Q What do you recall--

A Another significant thing that occurred was he showed us the finding. I read the finding and Armacost read the finding.

Q Now I want to go over that. That's what I was just about to go into. Admiral Poindexter had the finding with

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him?

A Yes.

Q This meeting was in his office?

A Yes.

Q Did he have the original finding?

A The original.

Q Where did he take it out from?

A Out of his safe it looked like.

Q And it was with the blue ink?

A He might have had it on his desk already, but I seem to recall that he asked Thompson for it and Thompson got it and gave it to him.

Q And again if you'd bear with me, do you recall where Thompson got it from?

A I don't.

Q But your recollection is that Poindexter said to Thompson, I want the finding and Thompson produced it for him?

A That's my vague recollection, yes.

Q And then it was displayed to you and Secretary Armacost?

A Right. And it was the original. That I recall clearly.

Q Do you remember the date?

A January 17th.

Q Were you shown any--January 17th, 1986?

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A Yes.

Q Were you shown any other finding?

A No.

Q Were you told whether there had been any other finding?

A No.

Q Was there any discussion with you of any proposed or actual finding that had been submitted to the President in 1985?

A No. There was some discussion about whether the President had approved the September 1985 shipment.

Q And what was said about that?

[Off the record.]

THE WITNESS: [redacted] We had a discussion about what [redacted] McFarlane said [redacted] and what [redacted] the President knew about this policy. And McFarlane said he expressed to the Israelis--this is what Poindexter was telling us — he made clear that the U.S. would not trade arms for hostages, refused expressly to sanction the shipment, the first shipment. [redacted] Then McFarlane said, he had a strong interest in establishing a channel to Iran.

And in response to a question from Kimche, he opined that the U.S. government would not stop selling arms to Israel if a transfer occurred. [redacted] Then Poindexter said that he, McFarlane, apparently informed the President of this

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action.

BY MR. BELNICK:

Q And as best you recall, that's what was said at that meeting concerning pre-January Presidential approval of the transfer?

A Right. And from that I would infer that the President had approved of the policy that McFarlane had articulated. That is, we're not approving of any of your specific arms sales, but if you do it, we're not going to cut you off; Congress is not going to cut you off.

Now there was also mention of Hawks. You'll see that in my notes. But [redacted], if anything, it indicated that [redacted] no missiles were not involved. It was parts, 240 line items, spares, et cetera, for Hawk air defense batteries, ~~and then~~ which, Poindexter said, ~~which~~ U.S. experts believe will prove useless.

Q But no mention that actual Hawk missiles themselves had been shipped?

A Correct.

Q And just so the record is absolutely clear, no mention by Poindexter or Thompson of any transfer pre-January 1986 other than the September transfer of TOW missiles via Israel to Iran?

A Correct.

Q Did you mention to Admiral Poindexter at this meeting or question him as to why he had been taking the approach that you shouldn't be getting all the facts, and that those facts should be confined to those on the Hill who get the briefing?

A Not in those terms. But we did press him for information. We asked him whether there were any memcons of their conversations with the Iranians and others; [redacted] (D) And he mentioned, in fact, that there were tape recordings of meetings with Iranians in the White House.

~~And~~ We asked for transcriptions of all these things, ~~and~~ [redacted] for more information.

Q Did Poindexter or Thompson tell you at the November 18 meeting anything about the involvement of private parties like Richard Secord or Albert Hakim in this transaction?

A No.

Q I believe there is a reference, if you look on the last page of Sofaer Exhibit 1, your memcon page 3, that apparently Admiral Poindexter said--I'm looking at the third paragraph--"Iran paid in advance for these shipments to Israel which paid the U.S. government through a proprietary. Poindexter assu~~r~~med that the arms merchant took his profit, but does not know how much was paid by Iran, only how much was paid to the CIA and DOD."

Did Poindexter tell you anything more about who the arms merchant was?

A No.

Q And again he didn't mention Secord, didn't mention Hakim?

A No.

Q Did he tell you anything more about the pricing of the arms, other than what's reflected in this paragraph?

A No.

Q And he did not tell you on November 18, I gather, that any portion of the proceeds of the Iran arms sales had been diverted to or for the benefit of the contras?

A No.

Q Nothing like that came up?

A Nothing like that.

Q And the only finding he told you about and led you to believe existed was the finding of January 17, 1986?

A Correct.

Q When that meeting was over did you feel that you then had the whole story?

A No.

Q Why not?

A Because I've heard lots of whole stories in my life.

Q All right, we'll go on. I just want to clear up, there is another version of the memorandum of conversation of your November 18 meeting with Armacost, Thompson and Poindex-

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ter I'll mark as Sofaer Exhibit 2. It's substantially similar to the one we've marked as Sofaer Exhibit 1.

[Sofaer Exhibit No. 2 was marked for identification.]

BY MR. BELNICK:

Q Judge, would you just describe what the--is Sofaer Exhibit 2 the version of the memcon of that meeting after Secretary Armacost edited it or added some of his comments?

A I don't know what Chris Ross did.

Q Chris Ross is Armacost's assistant?

A Chris Ross is Armacost's assistant. He took what I had done plus other information that he had available to him [redacted]--it may have been recollections by Armacost of the meeting that I didn't have in my version — and [redacted] he wrote this. [redacted] I thought for a complete record you ought to have it.

Q And you've looked at it. Is it substantially similar to your version?

A It is. There might be some differences. I haven't looked at it with great care. I think that there are no material differences. There might be exclamation points in Some places. [redacted]

Q Look on the second page, if you would please, of Sofaer Exhibit 2. You see the handwriting in the margin, December 1985. Whose handwriting is that?

A I don't know.

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Q How did the meeting with Poindexter and Thompson end on November 18?

A Cordially.

Q You and Secretary Armacost urged, as I gathered from the memcon, that they make sure the witnesses who will soon be appearing, tell the complete story and be utterly truthful?

A That was my particular concern because I was already very concerned about the way in which things were being done. ~~And~~ We were there, in part, because we knew that Casey was going to testify that Friday. We asked Poindexter to please be sure to see to it that we got to look at Casey's testimony before it was given on Friday.

I think I told him--I have here what I told him. That the witnesses had to be very carefully prepared.

Q This is the last paragraph of Sofaer Exhibit 1?

A Right. And in fact it says here, especially those related to activities prior to January 17, and that those things should be answered--all questions should be answered truthfully.

Q All right. Do you recall the President had a press conference the next evening, November 19th?

A Yes.

Q And do you recall that there was then a meeting that you participated in at the State Department on the morning of the following day, that is Thursday, November 20?

A Yes.

Q This was a regular morning meeting with the Secretary of State?

A Yes.

Q And the Secretary of State called you over after that meeting?

A Yes.

Q And what did he say to you concerning the Iran matter?

A He told Charlie Hill in my presence--

Q And who is Charlie Hill for the record?

A His executive assistant. He told Charlie [redacted] to brief Armacost and myself about the arms sales to Iran and all the information that he, the Secretary, might have about those sales.

Q Did the Secretary indicate that by then he had read your memo of the November 18 session with Poindexter and Thompson?

A No, but he might have.

Q Did Charlie Hill then give you the briefing?

A One additional fact. And that is that he knew that Armacost--

Q He is?

A The Secretary knew that Armacost and I were going

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to review the draft of Casey's testimony prior to Casey's testifying. And I'm sure that he had it in his mind that we should know what he knew--what the Secretary knew--in evaluating that draft.

Q Did you then proceed to a briefing with Hill?

A Yes.

Q This was in Hill's office?

A We started the briefing in Hill's office, and it went on for a considerable length of time with Hill reading from a summary based on his notes. I have a set of notes of that.

Q Please refer to them. In the course of that briefing, did you learn from Hill that there had indeed been a pre-January '86 transfer of weapons in addition to the September '85 transfer that you had heard about from Poindexter and Thompson?

A Yes, I did.

Q What did you learn?

A I learned that on November 18th, 1985 several things happened. One was a story about Ollie North stumbling on a warehouse in a certain country. And then a call from Bud McFarlane to the Secretary, or a conversation in which he said that the hostages, American hostages in Lebanon were going to be released on November 20th.

~~And~~ He said that Israel would fly 100 Hawks to

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[redacted] and transfer them to another plane. If the hostages were released, the plane would fly to Iran. If the hostages were not released the plane would fly to Israel.

Q This was McFarlane talking to Shultz in November of 1985?

A Yes. It [redacted] was a recorded conversation. I got the clear impression that there was a record of a conversation about that arms shipment in Charlie's notes.

Q And Hill told you also, judging from your notes, that Shultz had approved of what McFarlane told him--or opposed, excuse me.

A Had opposed.

Q Had opposed what McFarlane told him, and McFarlane said nothing further?

A Well, nothing further was said about the whole matter. It later developed that that whole plan fell through. The hostages were not released. But the Secretary was not told that the Hawk missiles were actually delivered to Iran until he was told that they had been returned.

Q Now during your briefing with Hill did someone from the CIA arrive with a draft of Director Casey's proposed testimony for November 21?

A Yes, right in the middle of that briefing. We took a break and Armacost and I went down to his office where we met with David Gries.

And particularly, was he sure that the CIA and the NSC did not know that these were weapons rather than oil drilling bits.

Q What did Gries respond?

A He didn't know anything really. I don't think he had any personal knowledge of this matter.

Q Did you find anything else in the draft testimony that caused you concern or that you took particular note of?

A Yes. First of all, I saw the prices, the money for the missiles, and it seemed low to me. It was either by then or (later) that day I started collecting information on the prices of TOW missiles. That was one.

Another thing that I saw that made me skeptical was the assertion that the CIA said they would help out, but only this one time. The CIA said they would assist Israel in shipping these oil drilling bits from [redacted] by finding an airline for them or giving them the name of an airline, but this is the only time they would do that without a finding. (D)

This made me skeptical because I didn't see any reason why they would be reluctant to help Israel get the name of an airline if all they were doing was shipping oil drilling bits. So that story did not hang together.

And then I saw the name of Southern Air Transport in the testimony. That made me concerned.

Q Why?

A I associated that name with Hasenfus or the whole Central American thing. I don't know whether Hasenfus had gone down yet.

Q He had.

A I associated the name with that. And to me it was a red flag indicating a possible connection to Central America.

Q When you finished reviewing the draft which had the reference to Southern Air Transport and oil drilling equipment, did you seek permission to go to the Attorney General?

A Yes, I went to--it was the same day. I think probably there was about an hour's difference between when I learned all these facts and had them mull in my mind.

I went to Charlie Hill and I told him that I thought there was a serious question relating to November and possibly even September. That the pre-January activities were not necessarily known by the Attorney General. That he had given an opinion in January, that he may not have known of any of these pre-January activities. And that it appeared that there was a misstatement in Director Casey's testimony and a story that was concocted.

Whether it was concocted with his knowledge or not, I had no idea. In fact, I knew he was out of the country.

Q Who?

A Casey, while this testimony was being prepared. So I assumed that it was being prepared by his staff. But whoever came up with that story, I questioned its veracity.

And I asked for permission from Charlie Hill, and Nick Platt, I believe was also there at the meeting.

Q Who was Nick Platt?

A Nick Platt was Executive Secretary.

Q At the Department of State?

A At the Department of State. And I asked him permission, in the sense that I had made up my mind to do this, but I always get clearance for a major thing like this. This was a--

Q What were you getting clearance for?

A To call the Attorney General and advise him that the testimony of Casey contained information about a shipment allegedly of oil drilling bits. That I did not believe that statement, and that in Secretary Shultz's notes, which Charlie Hill kept, there was an indication of a shipment in November of Hawk missiles and that McFarlane knew about that.

Q Did you know as of the time, Judge, that you reviewed the draft testimony--that is November 20--whether McFarlane had previously reviewed it?

A No.

Q You didn't know one way or the other?

A No.

Q Going back to your conversation, I assume Charlie Hill gave you permission to contact the Attorney General?

A Yes, he did. With great apprehension, but he did.

Q What did you do?

A I called the Attorney General and he was not in.

Q This was on November 20 still?

A November 20th. [redacted] I then called the Deputy Attorney General Arnie Burns. He was not in, but there was a promise that he would get back to me. He returned my call at around 3:27 that afternoon. I had called him around 2:30. [redacted] I told him [redacted] this information. Then he returned--

Q The information about the Hawks and the draft testimony?

A Right. He returned--let me get that clear now. I called him.

Q You called Arnie Burns?

A I communicated the information. Then he called me back and I returned his call again, and he told me the following. He said, that he had told the Attorney General the information I had conveyed. This is at 3:50 p.m. that day.

Q November 20?

A November 20th. He told me that he had conveyed the information that I had conveyed at 2:30 to the Attorney General about the November 1985 shipment from Israel, about the CIA's testimony concerning a White House urgent request for assistance in that shipment, and the White House NSC denial of such assistance.

By that time I had learned from Gries that the NSC and the CIA had a conflict. That the NSC claimed that they had no information at all about a request for assistance from the CIA concerning an oil drilling bit shipment. And the CIA claimed that their assistance in finding this aircraft was in response to an urgent request from someone in the NSC. So [redacted] a direct conflict existed there.

So Burns said to me that the Attorney General had spent the afternoon working with Poindexter and Casey on Casey's testimony and that he, the Attorney General, was fully aware of the facts I had mentioned. Burns said that the A.G. was profuse in his thanks for my warning and appreciated my motives but that he, the Attorney General, knew of certain facts that explained all these matters and that laid to rest all the problems I might perceive.

Burns said the Attorney General did not give him any facts and that he, Burns, was simply passing on the mysterious, as he put it, assurance that all was well.

Q And so Burns did not know what facts the Attorney General was referring to that he, the Attorney General knew that supposedly explained everything and laid to rest all the problems?

A Correct. Burns was just acting as a messenger.

Q And he himself found the assurance from the A.G., in his words, mysterious?

A He used that word.

Q Did you speak to anyone else on November 20 about your concerns regarding the draft testimony of Director Casey?

A I reported on this conversation to Charlie Hill and perhaps Nick Platt also, and told them that I was going to call the White House counsel.

Q They said fine?

A Not quite in that spirit.

Q In any event, they said okay?

A Let me make it clear that I was not asking them for permission in the ordinary sense of the word.

Q I understand that.

A I knew what my obligations were to the President and to the law, and it was a question of simply telling them what I was going to do. That I was not satisfied with the answer I had gotten from Burns and that I was determined to tell Wallison.

Q Let me make one thing clear for the record. We're not going to mark your notes, but the notes that you've been referring to of these conversations, including your notes of the Burns conversation on November 20 are contemporaneous notes that you made at or about the time the events and the conversations took,place?

A Most of them are. The [redacted] conversation with Burns was particularly carefully written down because I felt it was an important conversation and I wanted to be very careful as to its accuracy.

Q And that's the conversation to which you've just testified making reference to the notes, correct?

A Yes. I think I read them.

Q Now did you call Peter Wallison on November 20?

A Yes, I did.

Q Tell us about that conversation.

A I called Wallison after speaking to Burns and then going and telling the people upstairs that I was going to call Wallison.

Q I take it you weren't satisfied in hearing that the Attorney General knew of some unknown facts that explained everything and laid the problems to rest?

A No, I was not satisfied. I was not speculating in my mind as to what had happened, but obviously one of the possibilities I had in mind was that people in the NSC or others, Casey included, had convinced the Attorney General of a story that I might find unconvincing.

Q So you feared that there may be a cover-up in progress?

A I was very afraid.

Q Now tell us, please, about your November 20 conversation with Peter Wallison.?

A I called Wallison, it must have been around 4:00. And I told him everything that I had learned up to that point. I told him that he was the President's lawyer, that I felt an obligation to tell him these facts. That I had reviewed the CIA testimony. That I felt that it included a false story about oil drilling equipment, and that he should look into it.

Q What did he say to you?

A He was shocked.

Q This is Wallison?

A Yes. He didn't know anything about any of this. It was clear to me that he had been totally shut out of the process. He was extremely interested in as much information as I had, and he promised to talk to Cooper and Thompson about it. They may even have been in his office.

Q Do you recall that he told you that Cooper and Thompson were standing in his office at the time?

A My recollection is he said to me, they're right here. Cooper and Thompson are right here in front of me.

Q Did he put Cooper on the phone, do you recall?

A Yes, I do recall that he did put Cooper on the

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phone, as far as I recall.

Q And what did you tell Cooper?

A The same thing.

Q And specifically that the statements regarding lack of knowledge or statements regarding oil drilling equipment that you had seen were untenable in light of what you knew to have been the McFarlane-Shultz conversation?

A Yes, I added the--not only that. I told him what I knew about the conversation and then I added my own observations.

Q Before we get to your observations, do you recall that when you spoke to Cooper on November 20 while Cooper was in Wallison's office, when you told Cooper what you were concerned with that Cooper told you that the draft of Director Casey's testimony had only shortly before been modified to strengthen the claim regarding the November shipment, and that the draft now said that no one in the United States government knew that the November shipment was Hawks as opposed to oil drilling equipment. Do you recall Cooper telling you that?

A Yes.

Q And you responded, I take it, that that claim was impossible in light of what you knew to have been the conversation between the Secretary of State and McFarlane in November '85?

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A Yes. And I also thought it was untenable as a matter of logic. That the CIA would not have reacted in the way that Casey's testimony indicated. That is, with a warning that they would not do this again. That the request for an airline would not have been urgent over oil drilling bits. And that generally the whole thing smelled to me like the kind of thing you see in a trial--and I've presided over hundreds--in a narcotics case, for example, where they refer to the drugs as "shirts" or something like that. You always have some kind of phrase that you use to describe what you're selling when you don't want to talk about it directly.

Q And here it was oil drilling equipment?

A Right, oil drilling bits.

Q But what you heard from Cooper on his end was that, if anything, from the time you had seen the draft of Director Casey's statement until the time of this conversation, in between which you had conveyed a message to the Justice Department, the draft had gotten worse?

A That's true.

Q And now the draft had gone out to say that nobody in the United States government knew anything other than the oil drilling story?

A That's what Cooper told me. I had not seen the redraft.

Q Did you have occasion, on that call, to ask Cooper if he had spoken to the Attorney General by then about any of this?

A I don't know that I specifically asked him that. I probably mentioned to him that I had called Arnie and Arnie had communicated this information to the Attorney General.

Oh, yes, I definitely did, because I told him that I was disturbed by the answer that I had gotten.

Q The answer that you had gotten from Arnie?

A From Arnie, and that I thought that he should follow up and make sure that the Attorney General was not being sold a bill of goods.

Q And Cooper indicated he would do so?

A Yes, he did.

Q That conversation ended. Do you recall any more conversations on November 20, concerning this same matter?

A Yes, I had another conversation with Cooper around six o'clock.

Q Before you spoke to Cooper again, do you recall speaking to Wallison, who told you that there had been a conversation with North about that November shipment?

A I recall that having occurred at 6:25.

Q After you spoke to --

A I may have spoken to Wallison before and after, but

I do recall a conversation at 6:25.

Q Since I think that's the shorter one, tell us what the conversation was with Wallison at 6:25 p.m. on November 20.

A He said that, according to North, all North did was to give the Israelis the name of a proprietary airline. They, then, made the arrangements to use the airline. That he, North, denies that he knew it was Hawk missiles or arms. He says he understood it was drill bits.

Then Wallison said to me the President keeps getting deeper into this because people are operating in his name.

Q Who did you understand Wallison to be referring to when he said people are operating in his name?

A People were operating in his name. I understood it to be Poindexter, North and others were taking actions, had taken actions without the President's approval.

Q Taken actions during the period of the --

A Yes, September and November, right.

Q Tell us, then, about the evening conversation or conversations that you had with Cooper on November 20?

A Cooper said that Ollie North said that there had been no call and that he had no knowledge of any of this.

Q Any of the --

A The arms. And he denied the call to the CIA, as well, at that point.

Q What call to the CIA?

A The urgent call for an airline, to have an airline arranged. All he did was provide the name of a proprietary from the CIA. That is, he apparently did get, from the CIA at some point, the name of an airline which he passed on to the Israelis.

I said that that was nonsense, that it couldn't be correct, that we had a contemporaneous note of McFarlane's [redacted] call. I guess my note said that [redacted] Ollie North said there was no call, I gather would be the November '85 call. [redacted]

Q You said that there were contemporaneous notes at the State Department?

A Yes, I told Cooper that we had a contemporaneous note of the call in November '85.

Q Do you remember Cooper's succinct response?

A He expressed shock in a way that would not be polite to mention in a public record.

Q Shock at hearing about the note?

A Yes.

Q Did you tell Cooper you had a concern about the course that events were on?

A Yes, I told him that both Armacost and I were extremely concerned that people were not telling the full truth and we were scared -- I was scared that the President would be in trouble if the testimony was not changed and if people were not forced to tell the truth about all this.

Q Did you indicate to Cooper that you might have to resign or would have to resign if the testimony were not changed to reflect what you believed to be the truth?

A Yes, I did. The reason for that was I believed in the Secretary of State and if he had a note indicating that he believed that something had happened, I [redacted] assumed that that would be the truth and that would force me to have to indicate that in some forceful way.

Q To put it bluntly, Judge, you told Cooper that if Director Casey gave testimony that said no one in the United States government knew that the November transfer was Hawks, you were going to resign from the government?

A Yes.

Q Did Cooper respond?

A Yes, he said that he would [redacted] leave with me.

Q Did Cooper tell you whether he had spoken to Thompson or to McFarlane, after having heard from you in Wallison's office about McFarlane's recollection of November?

A It may well be that he told me that McFarlane said there was no call in November.

Q And that McFarlane even hearing, via Thompson or Cooper, that the State Department was taking the position

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there had been such a conversation and that the conversation involved Hawks, McFarlane was still saying he didn't know anything about Hawks in November and was denying or at least failing to recall any such conversation?

A Yes.

Q Did you hear again from Cooper late in the evening on November 20, that he had reached the Attorney General?

A Yes. Let me say that I was more concerned about cover-up than I was about anything else. I believed that Cooper and I and a number of other people had a duty to insure that no cover-up occurred. On the other hand, we also could have, if we had the true facts, we could deal with it. We could then see whether there was any proper legal basis for what had occurred.

I was not assuming that anything that had been done was illegal. What I knew was that a cover-up was illegal and that whatever you might be able to say about the legality of something you did, there is no way you could claim that a cover-up was legal.

Q It was your position you could deal with the facts, but not with the alteration of facts?

A Absolutely. You might be able to deal with the facts, and you have to face the facts, whatever they were, yes.

Cooper told me, at 11:28 p.m. that night, November

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20, according to my notes, that he had told the Attorney General about this. Apparently he had called him out of town and he, the Attorney General, fully shared the concerns we shared and he cancelled a trip.

There were many questions about Charlie Hill's notes that Cooper and the Attorney General had. When were they taken? What was written down in them? The Attorney General was very interested in those notes.

That he had called Paul Thompson and he was told earlier that Ollie North had adhered to his prior story, that Paul Thompson then called Poindexter, who tried to reach McFarlane and he couldn't reach him.

Then he told me that references in Casey's testimony had been changed.

Q The references to the oil drill story?

A Right, that it had been adjusted correctly to avoid the issue. I wrote ~~those~~ my notes that way because --

Q Wrote your notes that way?

A Yes, because what he told me was not an indication that the matter had been dealt with fully, in a satisfactory way, but at least the misleading of Congress was avoided.

I congratulated him and we agreed that the President should not be placed at risk until the truth is known. That is, we were satisfied with that fix because at least there wasn't a lie out there and the President wasn't at risk. We could then go further, investigate further, et cetera.

At this point, no formal investigation had been authorized by the President and I gather it was the next day or so that Cooper called me and said the President had authorized the Attorney General to investigate.

Q Does that do it for your recollection of events on November 20?

A Yes.

Q Let's turn to the next day, which is --

A ~~It's~~ The call took place at about two minutes to ~~12~~ midnight, November 21.

Q Turn to the next day, Friday, November 21, which is the day that Director Casey will go to the Hill to give his testimony. Did you see a draft of the revised Casey testimony that morning?

A Yes, I did, or I saw it at the hearing or heard it at the hearing.

Q Did you attend the hearing?

A Yes, I attended the first half of the morning session.

Q So you heard the Director testify?

A I did.

Q And you either observed, by looking at the testimony or heard by hearing it, that the reference ~~to~~ that no one in the U.S. government knew that November involved Hawks was gone from the testimony?

A Yes.

Q Do you remember that what was there was a reference by Director Casey to the effect that the pilots were told that the planes contained oil drilling equipment?

A It might have been there.

Q But you were satisfied, at least, that there was no misleading reference to what anyone in the United States government knew or did not know about that Hawk shipment?

A That wasn't cleared with me, anything about the pilots. If I had seen that in an earlier draft, I might have raised some questions about that as well.

Q What you heard, though, did you find satisfactorily in terms of the issue that you had been focused on, of U.S. government knowledge or lack of knowledge?

A Yes, that there was no assertion that no one in the U.S. government knew these were arms. I knew that some people knew that these were arms.

Q Was Secretary Armacost with you at the hearing?

A Yes, he was.

Q Was the reference to Southern Air Transport, that you had taken note of in the draft testimony, still in the testimony as Director Casey gave it to the Senate Committee on November 21?

A No.

Q Did that bother you?

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A Yes.

Q Did it concern Secretary Armacost, as well?

A [redacted] It did concern him.

Q Why did it concern you?

A As I said, I thought that the fact that the arms were carried by Southern Air Transport created a potential connection to Central America.

Q Potential connection between the Iran program and Central America?

A Yes.

Q What did you do, given this concern that now the reference to Southern Air had disappeared from Director Casey's testimony?

A I told Armacost of my concern and I drafted a memorandum, handwritten, to the Director of the CIA, Casey, from Armacost and myself.

[Sofaer Exhibit Number 3 was marked for identification.]

BY MR. BELNICK:

Q Is that the handwritten memo that we've just marked as Sofaer Exhibit 3?

A Yes.

Q Did you take this handwritten draft to Secretary Armacost?

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A Yes.

Q Did he make certain additions to it?

A I believe that the addition, "which were in earlier drafts" on the second line of the memo was made by Armacost. It could have been made by Chris Ross, or someone on his staff, but that is not my handwriting.

Q Was this memo officially sent to the DCI?

A No.

Q What happened?

A I gave this to Armacost by hand and I told him that I thought that we should send this memorandum. He said he would look at it and get back to me. He got back to me later and said that he had talked to Gries about this matter directly, rather than send a memorandum. Gries acknowledged a mistake had been made, that he didn't know why this reference had been dropped out, and that he would take care of it.

Armacost added that it was in their hands to take care of.

Q In CIA's hands?

A CIA's hands.

Q That discussion is noted at the bottom of your draft memorandum, Exhibit 3, correct?

A Yes, when Armacost gave me back this memorandum and told me what he told me, I wrote that down on the bottom.

Q Talked to Gries, et cetera?

A Right.

Q What is the last line on Sofaer Exhibit 3? "Meeting CIA to discount --" could you read that to us?

A "Meeting CIA to discount Iranian terror."

I recall, at that time, there was considerable criticism within the Department of State that the CIA was discounting the danger of Iranian terrorism and that there had been a meeting to discuss Iranian terrorism and that we had taken the opposite point of view, that no change had occurred.

Q Going back then to Exhibit 3 itself, though, the draft memorandum, your concern as I understand in preparing this memorandum for you and Armacost, was that the Intelligence Committees, one way or the other, get the information about Southern Air that had been deleted from the Director's testimony?

A Absolutely. This was a form of potential deception and lack of full information.

Q You understood from Armacost that Gries had given him some kind of an assurance that this would be taken care of?

A Yes.

Q Then you subsequently saw reference to Southern Air appearing in the press and perhaps elsewhere, and believed

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that that had been done?

A Yes, I assumed that the matter had been taken care of. After we discussed this recently, you and I, I called Mr. Armacost and he confirmed that he had passed this information on to Gries and Gries confirmed having received it and having passed it on.

He doesn't know exactly what happened, but from the newspaper accounts of all these events, and everything else, I assumed that the staff had learned in some appropriate manner that Southern Air Transport was involved.

Q On November 21, did you also receive a telephone call from Cooper?

A Yes.

Q What did Mr. Cooper tell you on that day?

A He told me that he was investigating the matter, that the President had authorized the Attorney General to conduct an investigation. This was Friday, I believe. And that he had learned that the pilot of the plane knew that they were carrying Hawk missiles or arms.

Q The pilot of the plane involved in the November '85 transfer?

A That's right.

Q Did Cooper tell you it was all a big mess now?

A Yes, because he gave me the impression that they had assured him --

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Q That who had assured him?

A That the people in the NSC, with whom they had spoken, had assured the Attorney General that the pilot did not know that he was carrying arms and the CIA didn't know, and now they found out that the pilot did know.

Q Indeed, Director Casey, as the record will show, had testified earlier that day that the pilot was told it was oil drilling equipment?

A Right. So it's clear that Cooper regarded that as very significant in light of that specific testimony.

Q Did Cooper tell you what he was going to do?

A He said he was getting off the phone right away because he was very busy.

Q Did he tell you, by that point, that the President had ordered a formal investigation by the Attorney General?

A Yes, either then or roughly then.

Q Did you, on this same day, Friday November 21, write a memorandum concerning this whole matter? A memorandum which was for the purpose of helping prepare the Secretary of State to see the President about the Iran deal?

A Yes.

MR. BELNICK: I will ask the reporter to mark what I believe to be that memorandum as Sofaer Exhibit 4.

[Sofaer Exhibit Number 4
was marked for identification.]

BY MR. BELNICK:

Q I will hand you the memo so marked, Judge. It's dated November 21, 1986, addressed to Messrs. Platt, Hill, Bremer and ~~Raifel~~ Raphel from you, subject memorandum of points concerning arms transfer to Iran. That is your memorandum?

A Yes, it is.

Q As stated, this is one you wrote in furtherance of helping prepare the Secretary to see the President?

A Yes, this was a reaction to the events of the last few days and to several drafts of a memorand~~a~~um that ~~was~~ were prepared by other officials in the Department of State concerning the President's press conference and the tremendous skepticism that existed within the Department about the positions taken by the President at that press conference.

I felt that the other memorandum was much too critical of the President and, in fact, missed what was really going on the President ~~being~~ had been prepared for a press conference by individuals who had actually supported a policy that was a disaster politically and possibly raised serious legal questions, and who were possibly withholding the truth from the President about events that occurred before January 1986.

Q So that you thought the focus ought to be on advising the President that there were people around him that were not telling him the truth?

A Yes, in fact ~~they~~ my point was to State Department ought to be more supportive of the President and more helpful in trying to get the President to support a full investigation and to avoid letting the President be drawn into a cover-up scheme of any kind through his sense of loyalty, which he has in abundance.

Q I gather also, from our conversation before the deposition, Judge, that you're not certain whether this memorandum of yours, Sofaer Exhibit 4, reached the Secretary before or after he had already seen the President?

A I am certain it went into the system because I know it was read by the Deputy Secretary, who approved of its approach. He felt that this memorandum was more in line with how the Secretary ought to approach the President, but I'm not sure that it got to the Secretary before his meeting with the President.

I've never really asked the Secretary.

Q Did you have a chance, during that period, Judge, to say to the Secretary face to face or to express to the Secretary face to face your concern that there was a cover-up or that people around the President were not telling the truth?

A I don't recall a specific meeting with him until Saturday, the next day, the 22nd. But everything I told Hill, I assumed was getting right to the Secretary. He was an immediate pipeline to the Secretary.

Q And you were telling Hill, throughout this period, that concern of yours?

A Every single event, and the phone calls, the substance of the calls, was communicated either to Hill or to Platt and I have found, in my experience at the State Department, that that is a direct channel. Either is a direct channel to the Secretary.

MR. BELNICK: Can we go off the record for a moment?

[Discussion off the record.]

[Sofaer Exhibit No. 5 was
marked for identification.]

BY MR. BELNICK:

Q For the record, Sofaer Exhibit 5 bears our identifying stamp numbers S-3916 through S-3921. And, Judge, my question is whether this exhibit is at least a draft or one of the drafts of the memo to which you were reacting in the memo you wrote, namely Sofaer Exhibit 4?

A Yes, it is a draft of the memo referred to in the first sentence of my memorandum. "The memo we have prepared is indispensable in that it contains useful material for the Secretary."

Q But you thought it was a memo which didn't give the right focus, which again in your judgment ought to have been not on criticizing the policy or the President, but on let's get the truth out and then deal with the facts?

A Well, the criticism could be there. The only part of this memo that I had been involved in [redacted] [redacted] was a section on serious legal questions on page 6. [redacted] That's why I found out about this memo.

But the tone of this memorandum was not the kind of tone you would use if you were trying to get the President-- if you were trying to help the President and trying to get the President to protect himself, rather than to protect others who might really not be deserving of protection.

Q Now when you say to protect himself, to protect himself by making sure that he got the facts and that the facts got out?

A The true facts, yes, because he was being told this was all defensive equipment. I mean, that's not an idea that hatched out of his head. Obviously, the President, he was told that all this equipment would fit on a certain size plane. I mean, the President of the United States doesn't make calculations like that. Those were calculations that were made by his staff, and they were obviously misleading him.

So the way this memorandum was written quotes from what the President said, and then given highly critical answers to what the President had said. That is not constructive. That was not constructive in my judgment.

Q You didn't think that the issue was a debate between the President and the facts, it was a debate over whether the President was getting the facts?

A Yes, I thought the facts--it was great to give the President the facts, and the facts here were very useful to the Secretary to convey to the President. But that that should be done in a way that's supportive of the President to show him how people were misleading him.

Q On November 21, did you also receive a telephone call from Bud McFarlane?

A Yes, I did.

Q Please tell us about that call.

A Mr. McFarlane asked me if--

Q He called you?

A Yes. He asked me if there were--he said that he had heard that there were notes, contemporaneous notes kept by the Secretary of conversations between him and the Secretary and others relating to the Iran arms matter.

Q Did he specifically mention the November '85 shipment, or just generally the Iran matter?

A I don't recall, but he said he had heard that there were notes. And I assumed that he had heard that from the Attorney General and that it related to the note that I had told the Attorney General about.

Q What else did Mr. McFarlane say?

A He asked if I had the notes and if he could have access to them.

Q What did you say?

A I said I didn't have the notes and that I would pass on his request.

Q Did he ask you whether the notes would be given to the Justice Department?

A Yes, he did.

Q And you told him they would be?

A Yes, I said I was sure they would be.

Q Did you hear from the Secretary of State's office subsequent to McFarlane's call?

A Yes.

Q What did you hear and from whom?

A I heard from Charlie Hill and/or Nick Platt--might have been both, might have been one--that McFarlane had called the Secretary and had asked to see him about the possibility of some notes that he, the Secretary, had kept.

Q Were you asked for your advice about that meeting?

A Yes.

Q What advice did you give?

A I advised the Secretary not to see Mr. McFarlane.

Q Why or why not?

A The reasons are spelled out in a memorandum I wrote to the Secretary, "Not for the System." It's entitled "Not for

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the System because it was not to be distributed to other people.

[Sofaer Exhibit No. 6 was marked for identification.]

BY MR. BELNICK:

Q And is that memorandum the one that we've just marked as Sofaer Exhibit 6?

A Yes.

Q And this is a memo you did send to the Secretary?

A Yes, definitely, on that day.

Q Do you know if the Secretary followed your advice?

A Yes.

Q And he did not see Mr. McFarlane, as far as you know?

A Yes, as far as I know. He may have spoken to him on the phone to tell him that he couldn't see him, but I believe that he didn't see him.

Q There's a notation in the upper left, 12/5 OBE, NP is that?

A Yes.

Q Is that Nick Platt's writing?

A Right.

Q Do you know what that--I know OBE usually means overtaken by events.

A Right.

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Q And is that your understanding of what it means here?

A Yes, it means that by the time Nick Platt got it it was December 5th. I must have delivered it to the Secretary via Charlie Hill, which is the back door essentially.

Q Now do you know whether the Secretary had a meeting with the Attorney General on the next day, November 22?

A Yes, one of the calls that I received on the 21st was from Cooper who asked me to set up a meeting between the Attorney General and the Secretary of State on the morning of November 22nd.

Q That Saturday morning?

A Yes.

Q And you set up that meeting?

A I did.

Q You came to the office that day?

A Yes, I did. I was in the office by 7:20 or so.

Q You did not sit in on the meeting between Cooper and the Secretary?

A I didn't.

Q Was the A.G. at that meeting so far as you know?

A Yes.

Q And so was Charlie Hill?

A As far as I know, Charlie was there, yes.

Q Were you debriefed on the meeting after it ended?

A Yes, I was.

Q What were you told?

A I was told that the Secretary and Charlie had gone through some of the story with the Attorney General. That the Attorney General had asked about the type of notes that had been preserved, and that had been explained to him.

The Attorney General asked the Secretary, was he sure that he did not know about the finding. That came up. And the Secretary said he did not recall the finding. And the thought was floated that the finding may have been discussed [redacted] on January 7th or whenever they had the meeting, but after the Secretary had left or some such thing, or at another meeting. But that came up.

And there was a general agreement that the State Department would [redacted] cooperate fully [redacted] for this investigation.

Q You spoke to Cooper the next day, November 23 on Sunday to find out how he felt about his meeting with the Secretary of State?

A Yes, I wanted to know--incidentally, another thing that came up in the meeting was the Secretary asked me if I could be his lawyer. He asked me for my judgment as to whether there was any reason why he should get another lawyer. He had mentioned the fact that I had very actively called the White House and the Attorney General about everything that I was finding out, and that he recognized the propriety of that. That I was really a lawyer for the government and for the President and that I had a duty to report all that.

And he [redacted] wanted to know--I think the issue had been raised with him by Nick Platt and Charlie Hill--[redacted] whether I could serve as his lawyer. [redacted]I told him that I had heard the story from Charlie. That I had pretty good information up to that date of the events, and that I saw no conflict of interest in my role as department lawyer, and President's lawyer, and the Secretary of State's lawyer. That I felt that since he was essentially clean, as far as I could tell, that he did not have any problem and that I had no problem representing him and preparing him as the ranking official of the Department of State.

Q Okay.

A He accepted that, and he was upset about the stress on law, all the legal stuff. He was very concerned about our terrorism policy and wanted the focus of public events to return to substance; very eager to have that happen. And I just said that he would have to live with this. That I perceived a long period of events relating to legal issues and hearings and everything else.

Q Let me go back a day or so. Do you recall that around the 21st, on or about then that you had asked one of your deputies to get you some numbers regarding the cost of the various weapons that you knew to be involved in these transfers?

A I believe it was Friday afternoon.

Q The 21st?

A I came back down and I called Mike Matheson. And I asked him to get me the figures on the cost of TOW missiles.

Q He gave you those figures, and what did you conclude when you looked at the figures?

A I concluded that the fair market value of TOWs was substantially in excess of ~~what the CIA had received from~~ what the DOD received from the CIA as payment.

Q And did that lead you to conclude that there was probably a surplus of funds that had been generated in this transaction?

A I didn't conclude anything, but it led me to [illegible] mention to the Secretary on Saturday the 22nd at the end of the meeting with him, after he had spoken to the Attorney General, ~~I said to him~~ that I was very concerned about the possibility that there was a surplus of funds. And that I had no idea how it was used, but that I also was concerned about the presence of Southern Air Transport in the picture.

And Mike Armacost mentioned the fact that there had been this contact in May of '86 from people involved with the [redacted] And he was concerned about money being

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diverted for freedom fighters around the world essentially.

Q What did the Secretary say?

A The Secretary didn't say anything, he just listened.

Q This was after the Secretary had met with the Attorney General?

A Yes.

Q And so the record is clear, the meeting between the Secretary and the Attorney General took place the morning, that Saturday before lunch?

A Yes, took place early in the morning.

Q Now jumping--

A After that night, or the next night--

Q November 23?

A Yes, November 23, I was interested in knowing where the investigation stood. And Cooper was interested in seeing the notes. So we were on the phone together. I don't know who called, but we were probably calling each other. He said, have you arranged to make sure that I can get to see the notes. And I said, don't worry, I'll see to it.

And I ~~said~~ asked, how did it go with the Secretary, and how is it going generally? He was exhausted, I could tell from his voice. It was late at night on Sunday. And he said, it's just a real mess, and that they had found out a lot of things.

And he asked me-- he mentioned that I had mentioned

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earlier that I was concerned about a surplus of funds.

Q How did he know that?

A I had mentioned it to him.

Q To Cooper?

A Sure. And he said, how did you know about that? What had led you to that? And I explained to him that I just thought there was a spread, ~~and~~ between cost price and sale price might be very different. [redacted] He didn't say anything, but he [redacted] led me to believe that that might be significant in the story. He did not explain to me what had happened.

Q Cooper didn't tell you on the 23rd that the day before representatives of the A.G. had found the so-called diversion evidence?

A No, he didn't at that time. I told him that, at [redacted] a minimum, I was scared that [redacted] Southern Air Transport had been given a lot of money for its arms shipments to the Middle East to subsidize it, in effect, for doing the work it was doing in Central America for the FDN.

Q But these were concerns that you were generating based on inferences? You at that time knew nothing about the fact of any diversion from the Iran program to contras or elsewhere?

A Not until the Attorney General's press conference.

Q On the 25th of November?

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A Yes.

Q Okay.

A Anyway, I also asked him about the Secretary's testimony and was the Attorney General satisfied with it, is there any other information that he needed, et cetera. And he assured me that the Secretary had given the Attorney General a full and credible story as far as he could tell, and that the problems that they had lay exclusively elsewhere.

Q Subsequently, did Cooper come in to see the Hill notes?

A Yes, he came in at 9:20 a.m. on the next morning.

Q November 24th?

A Yes.

Q Reviewed the notes? Were you there?

A No, he wanted to see the notes then, and Charlie still didn't have the notes pulled. He was very reluctant to actually give up physically the notes. It had never happened--

Q I know that.

A His reluctance came as a result of the fact that he has never had to do ~~with~~ such a thing in his whole career as a foreign service officer. But I told him in no uncertain terms that he would have to reveal all the notes that were relevant to any criminal investigation, and he accepted it.

So anyhow, he agreed to pull the notes, and Cooper said he'd wait. He read a memorandum Charlie prepared, which was an outline of what had happened. And Charlie gave him some more of a briefing. We had further discussion, and Cooper left.

~~And thereafter -- oh, yes.~~ At that meeting again that issue of the finding came up, that the Attorney General recalled that the finding was mentioned at the January 7 meeting.

Q Cooper was telling you this on November 24?

A Yes, telling us that. But it was not dwelled upon, were his words.

Q Did Cooper say anything to you on November 24th about the fact that there had been a finding signed on January 6, an earlier version?

A No, he didn't.

Q Did he mention to you on that occasion as to whether there had been a finding submitted in the fall or around November, early December of 1985?

A No. I found out that there were other possible findings at the hearing on the 21st when some senators--and the record will reflect this, Eagleton, I believe--raised the question about other findings. Apparently, Senate staff had already started to get information about other findings, even as early as that.

Q The only finding though of which you formally know about even today is the finding of January 17, 1986?

A No, I did find out when I was asked to clear boxes of notes and other materials for delivery to this committee about the other findings. I saw them when I went through those boxes.

Q I want to be careful on that. You saw a finding that was signed earlier in January 1986, right?

A Yes.

Q And you saw another finding which had been prepared in or about late November 1985?

A Could be, I don't know. I wasn't paying that close attention. I was doing a screening for purposes of [redacted] [redacted] transmittal [redacted]

Q Recognizing that, to your knowledge as you sit here today, Judge, do you know whether there was any finding signed earlier than January 1986?

A Do I know that?

Q Yes, sir. Do you know whether there was or there wasn't?

A I don't. I mean, I couldn't--not of my own knowledge, definitely not, could say that. Even if I saw a document dated before that day I wouldn't know that it was signed before that day.

Q Has anyone in the government ever told you whether there was a finding signed prior to January 1986?

A I saw a January--January, anytime in January?

Q No, has anyone in the government told you whether there was a finding signed earlier than January 1986?

A Earlier than January 1, 1986?

Q Earlier than January 1.

A No. Anyway, right after that call Cooper wanted to--he called me again. He really wanted to see the notes, and got Charlie to give me the note. And I got the note in my hand, and I read it to him, and he came over and he took a copy.

[Discussion off the record.]

BY MR. BELNICK:

Q Judge, then November 25 came, that was the Attorney General's press conference. And I take it your involvement since then has been in terms of--your involvement in this matter since November 25 has essentially been in terms of responding to requests from the congressional committees and the other investigator in town, the independent counsel, for information, documents and so forth?

A Pretty much.

Q And counseling the Secretary?

A Yes. Well, I helped prepare the Secretary's testimony and I'll be working with the Secretary on his appearance here with the committee. And I occasionally wrote things related to the Iran arms sale.

Q You did have involvement though subsequent to November 25 with the pledge and attempted contribution to the contras from the Sultan of Brunei, correct?

A Yes, I did.

Q And could you tell us what your involvement was there, what you learned and what you did?

A Incidentally, as to the note, I have a note on my copy of the note.

Q The Hill note?

A The Hill note, that it was sent to the Department of Justice on 11/24 at 11:45 a.m.

Q Thank you. Back to the Sultan.

A After the morning meeting on December 1st, the Secretary asked me to come into his office, and he asked Charlie to brief me on an operation involving Brunei.

And Charlie, in the presence of Elliott Abrams in part, and perhaps when he was out of the room in part, but certainly Elliott was there during much of this. He told me his best recollection and reading from his notes of what had happened with Brunei. And Elliott was there and he also added to the story as we went along.

Q You made more or less contemporaneous notes of that briefing you received on December 1, right?

A Yes, I made sketchy notes.

Q Now this was the first time you had heard about the

Brunei contribution?

A Absolutely.

Q Prior to then, by the way, had you heard whether any foreign countries had contributed monies to the contras?

A No.

Q Now in the course of the briefing, I understand that Hill advised you that Abrahms had gotten an account number at one point from Oliver North for the deposit of the Brunei contribution, correct?

A Correct.

Q And did you learn also during that briefing that North had told Abrahms when he gave Abrahms the number, that Abrahms should not tell the CIA that he was getting the money from Brunei, and that Abrahms should not use an account number that the CIA had given him?

A Yes. Abrahms had called the CIA first and had gotten an account number from [redacted] And he then got an account number from Ollie North. My notes indicate that that statement was made. Ⓓ

Q That North had said to Abrahms, don't tell the CIA you're getting the money?

A If you wait a moment, I'll tell you exactly.

[Pause.]

A Yes, he said, Ollie--

Q Who is telling you this on December 1?

A I think this is Charlie Hill telling me this, presumably in Abra~~h~~ms' presence. That his notes indicated that Ollie said to Abra~~h~~ms, "Don't tell the CIA that you got the money and don't use their number."

Q And Elliot then went to Hill and asked, what should I do?

A Right.

Q And what did Hill tell you that he had told Elliot?

A He said, nothing's changed. That is, we're still on track on the Brunei thing. Use Ollie North's number, which Hill felt was the better number to use because it was a direct pipeline to the FDN, rather than something the government of the United States would actually be holding.

Q That's what Hill believed?

A Yes, he believed that it would be better, legally better, although he didn't ask me. [redacted] I think it was a pretty good judgment on his part in that sense. It would be more direct anyway, as a contribution from Brunei to the FDN, for it to go into an FDN account rather than into a CIA account which would be a U.S. government account. That was his rationale.

And then he said, "Don't trust Ollie North."

Q This is what Hill told Abra~~h~~ms at the time, right?

A Right, don't trust Ollie North. Tell the CIA. Don't follow Ollie North's instructions. And if we go through the CIA account, the money is more likely to be handled by the U.S. What we want is a straight transfer.

Q But tell--

A But tell the CIA, yes.

Q So in other words, Hill said to Abrahms, don't use the CIA account, but tell the CIA what's going on. Don't listen to North and don't trust North?

A Right. As I recall now, Abrahms may not have been in the room when Hill told me this, because I have a note here that Hill did not know what Abrahms did.

Q Did Hill tell you the basis for his instruction to Abrahms or his advice to Abrahms not to trust Ollie North?

A He didn't at that time tell me anything beyond that. But at other times he had indicated to me that he didn't trust Ollie North.

Q He, Hill, did not trust North?

A Yes.

Q And did he tell you why he didn't trust Ollie North?

A That Ollie was very aggressive and would do things without telling people. At least he got the impression that Ollie--I got the impression that he thought Ollie was aggressive and might not be telling people everything that he was doing.

Q And when did you hear statements like this from Charlie Hill?

A Starting, let's say the winter of '85. As I got more integrated into the department and into the government I learned more about the personalities. And there were times when I would review suggestions by Ollie North for undercover activities in Central America, or for anti-terrorist operations in parts of the world and things of that sort. [redacted] Some of these suggestions that he made were irresponsible.

Some of them were creative, too. But he certainly was somebody that had to be watched.

Q Do you know whether Hill's view during '85-'86 of North was shared by the Secretary of State?

A Yes.

Q And it was?

A I think it was, yes.

Q Had you ever heard the Secretary of State comment about North directly?

A No.

Q But you knew Hill was close to him and believed he was reflecting the Secretary's view as well as his own?

A Yes, I think that he was reflecting the Secretary's view. Certainly, Armacost had that view also. He told me so.

Q Had Abrams ever expressed--

A And Abramowitz had that view.

Q How about Elliot Abrams?

A I never had a discussion about ~~Elliot about~~ Ollie

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as such with Abrams.

Q And never heard Abrams express a view on North?

A Not that I recall.

Q Did you have the perception that Abrams was close to North?

A That he had dealings with him, yes. I didn't know how close he was to him.

Q Back to Brunei.

A He told me during this period--

Q Who's that?

A Abrams told me during this period, it was around December or so.

Q Of?

A '86. This was after all this was starting to be revealed. And the question became--these issues of what he knew about North and what-not came up. He told me that he had called Ollie to get money to pay for the return of certain bodies in the Hasenfus shootdown, and that there was no money to move these bodies back in the State Department account.

~~And that~~ He ~~thought~~ knew that Ollie had access to people, Americans who believed that they had a duty or a patriotic obligation to help in these situations. ~~And~~ He said that Ollie had said this would be no problem--several thousand dollars. And he did ask me at the time, I recall, do I see any legal

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difficulty with that. [illegible] I saw no legal difficulty with Americans making a contribution to return the bodies of Americans to the United States.

But he was aware that this was a significant piece of information, and I advised him to pass it on to the FBI, and I passed it on to the FBI.

Q Returning to Brunei, Hill gives you the briefing on December 1. And does he tell you that the money subsequently has not arrived so far as the department can tell?

A Yes. He did, and Elliot told me that as well.

Q What happened next?

A He said the whole thing was still in limbo and that they had received a message from the Sultan that the money might take some time, and then they gave me all the cables. I asked for all the cables because this was similar to an incident that had occurred with the Singlaub contract.

Q The Pastora-Singlaub?

A Yes, Pastora-Singlaub "contract."

Q Between ~~the~~ Pastora and the United State[illegible]ns?

A Yes. I had been called in on that on the day of that cable that went down to Ambassador Tambs. And I called for all the cables, studied that, and I drafted a cable to Tambs telling him to stop that immediately.

Q Which I believe is in evidence as part of our hearing record.

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A Right. And this was another such instance. I called for all the cables, I looked at all of them and I put the story together. And basically went to my White House counsel group, which consists of the White House counsel, the OLC, Assistant Attorney General Cooper, the DOD counsel, CIA counsel when it's an intelligence matter.

~~And~~ I told them about this and I said, we'd better do something--this was the next day--we'd better do something about this money, and find out about it. ~~And~~ I also told the FBI. I called them in--actually they were there in the building interviewing people and all, and I called them into my office and I told them this whole story. I cut out the name Brunei, but I told them the whole story and gave them the cables.

Q And that the money was missing or unaccounted for?

A The money missing, right. ~~And then a day went by--uh, yes.~~ On Tuesday I got the account number from Nick Platt, and I immediately communicated that to the Department of Justice and to the FBI.

~~And then~~ On Wednesday I started pressing for action and was not getting it. ~~Basically~~ Rather, I was getting the message that it would take a long time to put together a request for the Swiss through the normal channels of the Mutual Legal Assistance Treaty, or whatever we had with Switzerland.

~~And~~ I told Arnie Burns that I was very, very

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concerned that we would be criticized for not doing something about this money. So on Thursday--

Q December 4?

A December 4th, I told Charlie Hill that I was going to seek authority to directly approach the Swiss ambassador in Washington, and simultaneously to send a cable to our ambassador in Switzerland, and to ask for the freezing of these accounts on an informal basis pending the Department of Justice's action.

I got approval for that. I talked to Burns and Mark Richard at the Department of Justice. I got their approval. I talked to White House counsel, I got his approval, and I acted. That evening I went to the Swiss ambassador's residence with my demarche, my official request. I took along the Swiss desk officer.

The ambassador was most responsive and communicated that message to Switzerland. When I came into work the next morning I was informed that that account and several related accounts had been frozen.

Q Judge, prior to the freezing, during the time period when you were getting briefed on this, do you recall that Elliot Abra~~h~~ms wrote or gave you a draft memo that he had written to the Sultan telling him that there's a big problem. He thought the problem was severe. A memo which wasn't sent, as it turned out, because the disclosures came about in November and overtook the draft?

A It was a draft cable, I think, and it wasn't sent. He did give me that.

Q And he also gave up the copy of the account number that he had been given by North which went into the safe as well? Did he give you that?

A No, he didn't give me that. He had given that to Nick Platt, and Nick Platt gave it to me, or he gave me a copy of it.

Q Fine.

[Discussion off the record.]

BY MR. BELNICK:

Q Were there any questions relating to Brunei that you pursued with Abra~~h~~ms on your own?

A Yes, I asked him whether there were other countries involved.

Q And he answered?

A No, except that I did find out about the Country No. 8 radios.

Q Radios from a certain country, Judge?

A Yes.

Q And I've identified for you that on our list that country is Country No. 8 and you agree we're talking about the same country?

A Yes.

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Q All right. He told you about the radios involving Country No. 8. Did he tell you whether that solicitation had been made?

A Yes.

Q Did he say who made it?

A He may have told me. I think he did tell me about this.

Yes, the Secretary made it.

Q And did he tell you that it was unsuccessful?

A He may not have told me at that time.

Q But he did tell you?

A Yes, at some point I found out about it.

Q Did he tell you the solicitation was unsuccessful?

A Unsuccessful.

Q Did you ask--

A But he also said then that they briefed the committee about it, the Intelligence Committee, and the committee had approved the purchase of the radios.

Q Did you also ask Abra~~h~~ms--and by the way, were you asking these questions when, early December?

A December 1st.

Q The same time you were briefed?

A Absolutely.

Q Did you also ask Abra~~h~~ms if--

A Well, it might have been later in the day.

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Q Yes, but the same day more or less?

A Yes.

Q Did you also ask Abra~~a~~ms whether there had been any quid pro quo for the contribution of Brunei?

A Yes, I did.

Q What did he say?

A He said there was no quid pro quo other than the gratitude of the U.S. government, that we would appreciate it. And this is one of the reasons we ended up with a country like Brunei that doesn't get any assistance from us. [redacted] Other countries were knocked off the list of proposed countries to approach because of this factor.

He did tell me that there had been a survey with Murphy, Ridgeway and Sigur — [redacted] [redacted] the regional secretaries all sat down. [redacted] I gather, the African regional secretary wasn't consulted because of the relative poverty of the countries there. But these four assistant secretaries were consulted as to [redacted] which countries should be approached and [redacted] Murphy and Ridgeway said forget it. [redacted] Sigur or someone came up with Brunei.

Q Did Abra~~a~~ms tell you or did you discuss with him how it was going to be insured in some way that the money from Brunei would be used for humanitarian purposes?

A Yes, I said that the one basis upon which the State Department might be criticized about this--I said, clearly we had the authority to solicit the money. And as far as I could tell, it was for humanitarian purposes.

The reason for that is, first of all, because the Secretary said that it was for humanitarian purposes and I believe him. And the second thing is that Brunei itself in a cable referred to, "for welfare" or something, and I felt that that was for humanitarian purposes. But ~~that~~ I said we might still be criticized for not having taken steps to ensure that it would be used for humanitarian purposes.

This was a line of criticism that I had considerable skepticism about because money is fungible. And I didn't see any requirement in the legislation that we [redacted] follow up [redacted] and make sure that anything that was solicited was in fact used for humanitarian purposes, [redacted] this is a very hard thing to make sure of when you don't have any control over what the contras are doing with other people's money.

[redacted] There seemed to be two different approaches. Elliot said that he was aware of this issue, and he was determined that once the money was in our hands or came into the account in Switzerland and Ollie told him about it, that he would do something to make sure the money was spent on humanitarian purposes, or we would get some assurances or something would happen.

[redacted] Charlie Hill's position was exactly the opposite. That we had no responsibility over that and that the less we got involved in that, the better. That it was not appropriate for us to start trying to monitor it, because if we did try to monitor it, we would have the duty to go into something that we would not really have the capacity to follow through on.

Q Let me understand. You have the impression that Hill and Abrams had had that discussion contemporaneous with the contribution, or that they were having it now?

A I got the distinct feeling that Hill's position on this was formed contemporaneously with the events, and that that was behind his statement to Abrams to use Ollie's number rather than the CIA's, because it was a direct pipeline to the FDN. In that way we did not get involved and wouldn't be responsible for FDN's use of the money.

Q But did you learn whether Hill and Abrams had exchanged those views contemporaneously with the contribution?

A I don't know. Abrams just told me. It may not even have been in the presence of Hill. But he did tell me that he was concerned about that issue and intending to do something about it.

Q On December 1, did Abrams tell you about his testimony on November 25 to the Senate Intelligence Committee concerning foreign country contributions to the contra cause?

A Yes, he told me that the issue had not been briefed yet to the Senate Select Committee, and that there had been a hearing the last Tuesday--

Q Which was November 25?

A Right. And that Bradley had asked whether Abra~~h~~ms had any discussions regarding money from Iran, [redacted] Ⓓ [redacted] Abra~~h~~ms had said no. And Abra~~h~~ms went on after that, if my recollection is correct--I'm sure of this--to give me the feeling that it had gone beyond that and that he had conveyed an erroneous impression of what had occurred.

[redacted] I told him that he had to tell the full story, and that he should get back in touch with the committee and tell them immediately what had happened.

Q And your recollection is that you told this to Abra~~h~~ms on December 1?

A Definitely.

Q And did Abra~~h~~ms tell you in the course of indicating to you that he believed he had given the Senate committee erroneous information, did he say to you that he had done that because he felt he wasn't authorized to talk about Brunei?

A He definitely said that. I'm confident that it was understood by Charlie and Abra~~h~~ms, however, that the Secretary had said to Abra~~h~~ms that Abra~~h~~ms should not reveal the solicitation of Brunei as such. That Brunei, the use of the Brunei was a no-no.

Q But it was the use of the word Brunei that they

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were asking him not to reveal, correct?

A It was that specific solicitation. The fact of a solicitation, the fact that a solicitation had occurred, I'm sure the Secretary would not have intended that [redacted] the committee would not be informed of that.

[redacted] My sense of it was that Abrams was quite upset that he had--that he felt that he had misled Bradley, and that that was a mistake. [redacted] There was no suggestion that he had been authorized to mislead the committee. To the contrary, ~~there was a~~ Abrams seemed to feel [redacted] a genuine [redacted] sense of remorse, in my judgment.

Q You told him to go back to the committee. What did he say?

A He nodded. He didn't contest that.

Q Did you discuss it with him again thereafter, this issue of his testimony and going back to the committee?

A Not really. I didn't go into any detail. I was available [redacted] to help him in any way that he might need help.

Q But he didn't come back for advice?

A No, he didn't, no.

Q All right.

MR. BELNICK: Tim, do you have any questions?

MR. TRAYLOR: No.

MR. BELNICK: Terry?

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MR. SMILJANICH: No.

MR. BELNICK: Judge, on behalf of both committees, the House and the Senate, I want to thank you for your cooperation, and use the occasion also to thank you for the cooperation we've received throughout from your office in this investigation. Thank you for your testimony.

THE WITNESS: I appreciate your appreciation since it has taken a tremendous amount of time of my staff. [redacted] We have tried to respond on behalf of the Secretary, pursuant to his instructions, to all your needs.

MR. BELNICK: I know it has, and as I said, we're all very appreciative of that cooperation. Thank you.

[Whereupon, at 5:12 p.m., the taking of the deposition ended.]

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I have read the foregoing 91 pages, which contain a correct transcript of the answers made by me to the questions therein recorded.

______________________________
ABRAHAM D. SOFAER

Subscribed and sworn to before me this __________ day of ______________.

______________________________
NOTARY PUBLIC

My Commission Expires ____________________.

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## CERTIFICATE OF NOTARY PUBLIC

I, PAMELA BRIGGLE, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by the witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of the action.

Pamela Briggle

PAMELA BRIGGLE

Notary Public in and for the

District of Columbia

My Commission expires May 14, 1990.

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MEMORANDUM OF CONVERSATION

On 18 November 1986, at 6:00 p.m., Armacost and Sofaer attended a meeting with Adm. Poindexter, at Poindexter's request, in his office. NSC attorney Paul Thompson also attended. Poindexter presented a review of some of the facts of USG arms transfers to Iran. Although Poindexter referred from time to time to a document that appeared to be a chronology, the presentation was not strictly chronological, and was interrupted periodically by questions from Armacost and Sofaer. The following outline emerged:

1. June 1985. The idea of opening a channel to Iran was expressly considered in connection with a proposed NSDD which included arms sales as a strategy. (DOD and State opposed arms sales.)

2. July 1985. Kimche visited the U.S. and proposed to McFarlane that the U.S. allow Israel to transfer some arms to Iran in order to establish a channel to [redacted] McFarlane refused expressly to sanction such a shipment, and made clear that the U.S. would not trade arms for hostages. He did express a strong interest, however, in establishing a channel to Iran, and in response to a question he opined that the USG would not stop selling arms to Israel if a transfer occurred. He apparently informed the President of this action.

3. September 1985. A transfer of 508 TOW anti-tank missiles occurred from Israel to Iran. A meeting was held in the President's residence, at which Secretary Shultz was present to discuss this issue. GPS and Weinberger objected, and raised legal obstacles to arms transfer.

4. October-December 1985. Meetings occurred in London and elsewhere between Casey, other CIA officials, NSC personnel, Iranians, and Israelis. Peres chose Nir to represent Israel. These discussions made clear that the September transfer had potentially opened a channnel for the U.S. to [redacted] who actually attended a December meeting with McFarlane in London. At this meeting, McFarlane laid out USG objectives, and was told by Gorbanifar that Iran could stop hostage taking, and that Khomeini had issued a Fatwa (pronouncement) that terrorism is inconsistent with the Koran.

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Sofaer Ex. #1

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5. December 1985. A meeting was held at the President's residence, attended by Weinberger, McFarlane, and Meese. (Poindexter was unclear as to Secretary Shultz' presence.) The President heard a report on the project, as well as all views, and was told by the Attorney General that he could lawfully proceed with the plan as an intelligence operation. The President decided to go ahead and ordered a finding prepared.

6. January 17, 1986. A finding on Iran was signed. (Poindexter showed it to Armacost and Sofaer. It is well drafted, and stresses the strategic issues, mentioning the return of hostages as the third objective being sought.)

7. February-April 1986. Meetings took place between representatives of the U.S.(NSC, CIA), Israel, and Iran [redacted]. The Iranians with whom the U.S was in touch were young and claimed a need to demonstrate through arms transfers (specifically including TOWs) that they were dealing with the USG. The U.S. periodically gave the Iranians intelligence [redacted] Additional shipments of arms were also provided during this period, specifically 1000 TOWs, plus 508 TOWs to replenish Israeli shipment in September 1985.

8. May 1986. McFarlane visited Tehran and attempted to establish higher contacts. He met advisers of the leadership, but none of the three top leaders was willing to meet him. The Iranians wanted the meetings, but failed to prepare for the visit. (Poindexter gave Armacost a copy of the talking points prepared for McFarlane's use in Tehran.)

9. May-November 1986. Discussions and other activities continued. (Thompson had told Sofaer earlier in the day that at least one shipment of arms may have reached Iran after August 1986, when Congress passed a law prohibiting all transfers to Iran.) The operation became public when an Iranian faction sought to embarrass Rafsanjani, [redacted]

Other facts communicated by Poindexter including the following:

-- USG shipped a total of 2008 Tow missiles, and 240 line items (spares, etc.) for Hawk air defense batteries (which U.S. experts believe will prove useless);

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## MEMORANDUM OF CONVERSATION

Participants: Admiral Poindexter
NSC Attorney Paul Thompson
Under Secretary Armacost
Judge Sofaer

Place and Time: Admiral Poindexter's Office
November 18, 1986, 6:00 - 7:30 p.m.

Subject: Iran

At 6 p.m. November 18, Messrs. Armacost and Sofaer met with Admiral Poindexter and Mr. Thompson. Poindexter presented a review of some of the facts concerning USG arms transfers to Iran. Although from time to time Poindexter referred to a document that appeared to be a chronology, the presentation was not strictly chronological. Armacost and Sofaer interrupted periodically with questions. The following outline emerged:

1. June 1985. The idea of opening a channel to Iran was expressly considered in connection with (a) an NIE describing increasing internal turmoil in Iran and Soviet efforts to exploit it and (b) a proposed NSDD that suggested the use of arms sales as part of a strategy of dialogue.

Both Defense and State formally expressed their opposition to this portion of the strategy.

2. July 1985. Israeli MFA Director General David Kimche visited the U.S., met with McFarlane, and proposed to him that the U.S. allow Israel to transfer a quantity of arms to Iran to facilitate the establishment of a channel to an authoritative Iranian, [redacted] and Menachehr Gorbanifar, who might be useful in helping get the release of U.S. hostages. [redacted] was to be the channel for policy; Gorbanifar the channel for hostage issues. McFarlane expressly refused to sanction such a shipment and made it clear that the U.S. would not trade arms for hostages. He did, however, express a strong interest in establishing a channel to Iran, and in response to a question he opined that the USG would not stop selling arms to Israel if a transfer occurred.

McFarlane apparently informed the President of this action.

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Sofaer Ex. #2

-- USG got agreement from Iran [redacted] Poindexter believes this has been done.

-- Israel agreed to ship only what the USG allowed, but Poindexter believes Israel has shipped what it wanted to ship, though such shipments may now be suspended or slowed;

-- Iran paid in advance for these shipments to Israel, which paid the USG through a "proprietary". Poindexter is sure that the arms merchant took his profit, but does not know how much was paid by Iran, only how much was paid to the CIA and DOD;

-- NSC kept no memcons of any of the meetings involved, Poindexter said. Some recordings do exist, however, of meetings with Iranians. (Sofaer asked that they be transcribed promptly.)

-- At least one contact has been made after public exposure of this channel. The Iranians indicated they were still trying to obtain the release of two remaining American hostages, and to find out the location of the three hostages most recently seized;

-- Poindexter believes the USG should continue to pursue the objectives of the Finding, but did not say anything about future arms transfers. He said that the effort was now less tightly held so State could be more involved.

-- Armacost and Sofaer emphasized the need to prepare all witnesses carefully, and to answer correctly all questions, especially those related to activities prior to January 17.

3. September 1985. Israel transferred 508 TOW anti-tank missiles to Iran. It is not clear what understandings there may have been with respect to USG replacement of equipment shipped by Israel to Iran.

December 1985 A meeting was held in the President's quarters to discuss the issue, with Secretaries Shultz and Weingberger present. Both objected to such arms transfers, citing, inter alia, legal obstacles.

The NSC subsequently asked Attorney General Meese to review the legal issues.

4. October-December 1985. Meetings occurred in London and elsewhere between McFarlane, CIA and NSC officials, Iranians, and Israelis, at least initially to check out the bona fides of [redacted] and Gorbanifar, a second Iranian channel. Prime Minister Peres chose his counter-terrorist coordinator, Aviram Nir, to represent Israel. These discussions made clear that the September transfer had potentially opened a channel for the U.S. to [redacted] who actually attended a December meeting with McFarlane in London. (Poindexter told Armacost he was unsure whether the Israeli initiative reflected their desire to be helpful or their search for sanction for their own arms shipments. Israel agreed to ship only what the U.S. asked it to, but it is likely it shipped whatever it wanted. The NSC assumed it couldn't verify Israeli activities and sought therefore to harness them to its own "project.")

At the December meeting, McFarlane laid out U.S. objectives. [redacted] told him that Iran could stop hostage-taking and that Khomeini had issued a Fatwa (religious pronouncement) to the effect that terrorism is inconsistent with the Koran. (No one has been able to corroborate whether such a document was actually issued.)

January 1986
5. ~~December 1985~~. A meeting was held in the President's quarters with Weinberger, McFarlane, and Meese in attendance. (Poindexter was unclear as to whether Shultz was present). The President heard a report on the project, as well as all views, ~~and~~ was told by Meese that he culd lawfully proceed with the plan as a covert intelligence operation. The President decided to proceed and ordered the preparation of a finding.

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6. January 14, 1986. The President signed a finding on Iran. (Poindexter showed it to Armacost and Sofaer.) It is carefully drafted; it stresses the strategic issues and mentions the return of the hostages as the third objective being sought.

7. February-April 1986. Meetings took place between representatives of the U.S. (NSC and CIA), Israel, and Iran [redacted]. The Iranians with whom the U.S. was in touch were young; they claimed that the U.S. needed to demonstrate thje tangible benefits they would derive from dealing with the U.S. through arms transfers, including TOWs.

The U.S. periodically gave the Iranians intelligence [redacted]

Additional shipments of arms were also provided during this period, specifically 1000 TOWs to Iran and 508 TOWs to Israel to replace the September 1985 shipment.

8. May 1986. McFarlane visited Tehran and attempted to establish higher contacts. He eventually met advisers of the leadership, but none of the three top leaders was willing to meet him. The Iranians wanted the meetings, but failed to prepare for the visit. (Poindexter attributed the disappointing results of the trip to Iranian disarray. He gave Armacost a copy of the talking points prepared for McFarlane's use in Tehran.)

9. May-November 1986. Discussions and other activities continued. (Thompson had told Sofaer earlier in the day that at least one shipment of arms may have reached Iran after August 1986, when Congress passed a law prohibiting all transfers to Iran.) The operation became public when an Iranian faction sought to embarrass Rafsanjani [redacted]

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To: Director, CIA

From: P - Michael Armacost
L - Abraham D. Sofaer

We wanted to bring to your attention the fact that your final testimony deleted references — Such was in earlier draft: to the fact that shipments of arms to Iran were carried by Southern Air Transport (SAT). Dave Gries informed us that SAT is not a proprietary, and has no connection to the Agency. We are concerned, however, that members of Congress may improperly infer that such a connection exists if the information is withheld. We suggest a letter be written, or some other appropriate means of communication be adopted, to pass on this information, along with any statement you may care to make.

— Talked to Gries - acknowledge a problem. - don't know why it was dropped out - in their hands.

— meeting CIA to [illegible] Iranian [illegible].

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. Sofaer Ex. #3

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Other facts that Poindexter communicated include:

-- The USG shipped a total of 2008 TOW missiles and 240 line items (spares, etc.) for Hawk air defense batteries (which U.S. experts believe have proved useless).

-- The USG got agreement from Iran [redacted] (Poindexter believes this diversion has in fact occurred.)

-- The payment chain went from Iran to Gorbanifar to Israel an arms merchant to a "proprietary" to the CIA to DOD. (Poindexter knows only what was paid to the CIA and DOD; he is sure the arms merchant took a profit and therefore does not know how much Iran paid.)

-- The NSC states it kept no memcons of any of the relevant meetings. Some tape recordings of meetings with Iranians do exist. Sofaer asked that they be transcribed promptly.

-- At least one contact has been made after public exposure of this channel. The Iranians have indicated that they are still trying to get the release of the two remaining U.S. hostages and to find out the location of the three U.S. hostages most recently seized.

-- Poindexter believes the USG should continue to pursue the objectives of the finding, but did not say anything about future arms transfers. He said the effort was now less tightly held, so the Department could be involved to a greater extent.

-- Armacost and Sofaer emphasized the need to prepare all witnesses carefully and to answer all questions, especially those related to activities prior to January 17, truthfully.

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November 21, 1986

To: Nick Platt
Charlie Hill
Jerry Bremer
Arnie Rafael

From: Abe Sofaer

Subject: Memorandum of Points Concerning Arms Transfers to Iran

The memo we have prepared is indispensable in that it contains useful material for the Secretary. We need also to prepare, however, a set of points more appropriate for him to use with the President. The Secretary is not interested in criticizing the President, and the memo is presently written in a form that could be so construed. The memo also seems too concerned with defending both the Secretary and the Department; that is not an approach that is likely to succeed. We need to change the memorandum's format, or to provide a separate set of points by which the memorandum's substance can be conveyed so as to advance the Secretary's aims. In the process, we may find that, while all the points collected are valid some should be deferred as untimely or potentially counterproductive.

The President is presently under great pressure, and is still learning about some aspects of the question. He needs to feel we are his loyal troops, working to protect him from the dangers this operation has created. Timing is therefore a matter of crucial importance. The Secretary will be far more effective if he defers the broader, institutional reforms he may be seeking until after the present crisis has abated. Time is on his side on those issues. The type of help the President needs in the short run is in attempting to prevent further damage to his credibility. This is a formidable challenge, since some of his closest former and present advisors may have an interest in avoiding a full and truthful exposure of their activities. Yet, such exposure should be the Secretary's highest priority. The facts will demonstrate the Secretary's points, over time, but in a way that the President is most likely to accept. In general, I suggest an approach that asks rather than instructs, that exposes facts rather than asserts conclusions, and that allows the President time to see what is in his best interests rather than makes demands based on our own, already well-formed conclusions. We will need to work carefully, and with the Secretary's guidance, to convert these thoughts into talking points. But here are some preliminary ideas:

- We have a variety of problems, some more urgent than others. My main, present concern is to ensure that no one who acts or speaks for the Administration misleads us or the public as to the true facts.

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Sofaer Ex. #4

- Would it be useful to have a systematic collection of all the evidence available? Congress will soon be out of session. This will provide an opportunity to develop a relatively full account of what occurred.

- Some disputes as to the facts have already arisen, even within the Administration. What can we do to ensure that we do not embarass the Administration by taking positions that may later be proved wrong? Perhaps an interagency group under the AG's control should be formed to ensure that we know what each of the players did.

- We cannot avoid a proper inquiry. [redacted] We also have recordings of meetings with the Iranians. They should be analyzed now, rather than later under the pressure of legislative scrutiny. The records kept at the NSC are particularly important. All diaries, memcons, and other materials should be collected and a thorough chronology prepared. Of course, this includes any materials in Bud's possession.

- Congress and the press are focussing a lot of attention on legal issues. Of course, the AG's position is a great help, and we will do everything possible to support it. But does it cover all the problems? My understanding is that the AG's opinion relates to the legality of activities pursuant to the Finding. What about prior activities? Also what about activities after the prohibition on transfers to Iran in August 1986?

The issue of notification is less a legal than a practical, political problem. We have delayed notice of arms transfers both before and after the Finding, for unprecedented periods. We must work to make the strongest case possible to justify the delay, and to avoid alienating potential supporters in Congress.

How should we deal with claims that our foreign policy apparatus is in disarray? We should not appoint any panel of wise men to decide how to allocate foreign policy functions. But shouldn't we do some thinking of our own?

- In particular, should we not evaluate the premises on which this arms transfer plan was adopted? Many of them seem questionable. (Add discussion of specifics.)

- In light of the decision not to ship any more arms to Iran, would it be useful to consider other channels for continuing our effort to develop better ties? [redacted]

The Administration has engaged in policy which had great risks to the credibility you established. Many legal questions raised in the process. Possibly harmful changes may result in relevant laws, even if actions not demonstrably unlawful.

But these are not the most serious concerns. We can get through claims of illegality, but not through any disembling. We need to be sure no one mistakes the facts. Further, this Administration has done well at restoring confidence of American people, especially in our foreign policy. This confidence should be preserved to the extent possible.

To accomplish these ends, we must consider the extent to which the President may be vulnerable, not merely on account of the arms sales which were approved, but also because of other actions which were not approved.

1. "We found some individuals (in Iran) that it might be possible for us to deal with.... There are factions within Iran."

S 3916

— Those with whom we were dealing were unscrupulous and untrustworthy. They are advocates and practitioners of that very scourge we are fighting elsewhere in the world — terrorism. Our two primary contacts for the operation were Gorbanifar and [redacted]

— Gorbanifar had been rejected by the CIA as a contact since, after several polygraphs, they concluded he was a "habitual fabricator" who could not be trusted.

-- On November 16 [redacted]

2. "We did not condone and do not condone the shipment of arms from other countries.... We have had nothing to do with other countries or their shipment of arms or doing what they're doing."

— As your subsequent clarification notes, we knew that Israel was shipping weapons. In a July, 1985 discussion with Bud McFarlane, Israeli MFA Director General David Kimche directly sought U.S. approval of Israeli arms transfers to Iran. I am told Bud did not sanction such shipments but said that the U.S. would not stop selling arms to Israel if a transfer occurred.

[redacted]

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-- The direct linkage between Israeli and U.S. supply is shown by the fact that, in early 1986, we supplied 508 TOWs to Israel to replace those it had sent to Iran in September 1985.

-- Bill Casey's testimony for tomorrow reveals that in November 1985 the CIA helped Israel transfer Hawk missiles by Israel to Iran at the NSC staff's request. Shockingly, the NSC staff denies having made this request.

-- The NSC staff has apparently arranged that Southern Air Transport carry many of the arms to Iran. The CIA says this is no longer a proprietary. It is noteworthy, however, that it is the same airline on which Hasenfus and others carried arms to the Contras. This will undoubtedly complicate our efforts to support the Contras.

3. "The mission was served that made us waive temporarily for that really miniscule amount of spare parts and defensive weapons.... The so-called violation did not in any way alter the military balance between the two countries."

[redacted]

4. "Iran does not own or have authority over the Hezbollah.... The Iranian government had no hostages. Iran held no hostages."

-- Without any qualification, Hizbollah is a creature of the Government of Iran, and Iran is its main banker, patron, arms supplier, and adviser.

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—Hizbollah was established in 1982 in Lebanon by Iranian Revolutionary Guards. [redacted]

— The Revolutionary Justice Organization (RJO) has claimed credit for the kidnapping of two of the last three American hostages. The kidnapping of the third was claimed by the Islamic Jihad Organization, an Iranian-controlled entity.

— [redacted]

— We are convinced that Iranian-controlled groups in Lebanon have concluded that it is in their interest to kidnap additional Americans because, whatever we may say, America does pay ransom.

5. "Our purposes were...to bring a negotiated end to the Iran-Iraq war."

—Opening a channel of comunications to Iran could hasten that end. The supply of arms, even in the context you described, will only make Iran more intransigent and more set on prosecuting the war. The Iranian leadership is convinced it has managed a major breakthrough, and other arms suppliers will now disregard Operation Staunch efforts. Everyone with experience in Iran and dealing with Iranians firmly believes that we have lengthened the war because of the psychological and political boost we have given to those who successfully got arms out of us. In a November 20 speech, Ayatollah Khomeini has told his nation that the "Black House" representatives "presented themselves meekly and humbly at the door of this nation, wishing to establish relations. They wish to apologize for their mistake, but our nation rejects them."

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6. "There is a mistaken perception that we have been exchanging arms for hostages."

— It is very clear to the Iranians that we were exchanging arms for hostages. McFarlane informed the Secretary that Kimche reported that hostages would be released on November 20, 1985 and that Israel planned to fly 100 Hawk missiles from [redacted] Israel, and subsequently to Iran if the hostages were released. (In the event, the shipments were sent via a CIA proprietary and were delivered to Iran despite the fact that no hostages were released.)

— On several occasions, McFarlane and Poindexter described the operation to us, and Ollie North described it to others, as being arms for hostages, and in some cases as money for hostages. Every time a hostage was released, it was preceded by a shipment of arms to Iran. Regardless of our statements to the contrary, we are convinced that the Iranian leadership believes that it was involved in arms-for-hostages exchanges.

7. "Key Cabinet members were consulted throughout, and our policy objectives were never in dispute."

— This is not true. The Secretary of State was told on at least four occasions that the operation was completely turned off. The last such time was in June of this year. The Secretary was never shown the Finding; he was not informed of McFarlane's trip to Tehran, and he was unaware of the CIA role in transferring these weapons. Both the Secretaries of State and Defense were firmly opposed to the supply of arms and continued to make their opposition known to the President.

8. "If there had not been so much publicity, we would have had two more than we were expecting."

The Iranians with whom we were dealing never fully delivered on any of their commitments, and they would not have done so here. It is in their interest to retain several hostages as insurance [redacted] This was proven when Iranian-controlled groups recently picked up three more Americans in Lebanon.

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[redacted]

— Also, even if the deal had worked as planned, it would have been yet further evidence that we condone trading hostages for arms. We understand that among the activities attempted last week was the transfer of additional arms as a sweetener for the release of more hostages. If this had worked, it would have conclusively shown that the price for getting the additional two hostages released was arms.

9. "We said that we did not want to do business with any nation that openly backed terrorism. There has been evidence of a lessening of terrorism on the part of Khomeini and his government."

[redacted]

[redacted]

—Although one may be able to argue that Americans were not as intensely targetted by the Iranians during 1985 as they were formerly, there is no doubt that Iran has not reduced in any way its support for international terrorism and our friends and allies, as well as the three [illegible], continue to suffer.

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10. "There may be some misunderstanding of one of my answers tonight. There was a third country involved in our secret project with Iran...."

[redacted]

11. "I was not breaking any law.... I have the right under the law to defer reporting to Congress.. ."

-- Serious legal questions arise for two reasons:

a) We knew of and evidently acquiesced in Israeli shipments to Iran months before the January 1986 finding was signed. A central issue is how we square our knowledge and apparent acceptance of such shipments with the fact that, over a year later, we have still not informed Congress of a third party transfer as we are required to do under the Arms Export Control Act.

b) At least one shipment of U.S. arms may have left the U.S. for Iran after August 1986, when Congress passed a law prohibiting all transfers to Iran. While a strong argument can be made that the Finding can authorize transfers prohibited by the AECA's general provisions, that argument became more difficult in the face of the specific prohibition in August.

Finally, while Section 501 of the National Security Act clearly recognizes some degree of legal authority in the President to control the timing and form of notice of intelligence actions, the delay in this instance -- about 11 months -- is unprecedented and will be condemned by legislators from both parties.

Overall, this action could lead to further restrictions on the President's legal authority.

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United States Department of State

Washington, D.C. 20520

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November 21, 1986

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MEMORANDUM

TO: The Secretary

FROM: L - Abraham D. Sofaer ADS

SUBJECT: Iran Arms Sales

ISSUE

How to respond to Bud McFarlane's request to speak or meet with you concerning Iran arms transfers.

The Attorney General has informed me that the President has authorized a review of the facts relating to the transfers of arms to Iran, either by the U.S. or by Israel. McFarlane has apparently claimed that he knew nothing about a shipment of HAWK missiles in November 1985, and that he kept you fully informed as to all the details of the operation. He has been interviewed by the A.G., who now wants to interview you on these matters. I recognize that you may want to agree to meet with McFarlane in light of your longstanding professional relationship. He may also be offended if you decline his request. On the other hand, to see McFarlane now, or to discuss any disputed issue of fact with him, could (1) create an appearance that he is coordinating his position with you; (2) lead to misunderstandings between you and McFarlane as to what is said in the meeting; and (3) cause the A.G. to feel that he is not getting your views without any effects that might result from a discussion with McFarlane. Finally, you are in no position to discuss these matters with McFarlane until you have gone over the record.

I therefore recommend that you decline in the manner of your choosing to speak or meet with Bud McFarlane at this time.

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Declassified/Released on 24 June 1987
under provisions of E.O. 12356
By B. Reger, National Security Council

S.C. Ex #10